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THE

PRINCIPLES

OF

MORAL AND POLITICAL PHILOSOPHY.

BY

WILLIAM PALEY, D.D.

ARCHDEACON OF CARLISLE.

59712

THE EIGHTEENTH EDITION

IN TWO VOLUMES.

VOL. I.

LONDON:

PRINTED FOR J. FAULDER, NEW BOND-STREET.

1810.

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TO

THE RIGHT REVEREND

EDMUND LAW, D.D.

LORD BISHOP OF CARLISLE,

MY LORD,

Had the obligations which I owe to your Lordship's kindness been much less, or much lower, than they are; had personal gratitude left any place in my mind for deliberation or for inquiry; in selecting a name which every reader might confess to be prefixed with propriety to a work, that, in many of its parts, bears no obscure relation to the general principles of natural and revealed religion, I should have found myself directed by many considerations to that of the Bishop of Carlisle. A long life spent in the most interesting of all human pursuits,—the investigation of moral and religious truth, in constant and unwearied endeavours to advance the dis-

covery, communication, and success of both; a life so occupied, and arrived at that period which renders every life venerable, commands respect by a title which no virtuous mind will dispute, which no mind sensible of the importance of these studies to the supreme concernments of mankind will not rejoice to see acknowledged. Whatever difference, or whatever opposition, some who peruse your Lordship's writings may perceive between your conclusions and their own, the good and wise of all persuasions will revere that industry, which has for its object the illustration or defence of our common Christianity. Your Lordship's researches have never lost sight of one purpose, namely, to recover the simplicity of the Gospel from beneath that load of unauthorised additions, which the ignorance of some ages, and the learning of others, the superstition of weak, and the craft of designing men, have (unhappily for its interest) heaped upon it. And this purpose, I am convinced, was dictated by the purest motive; by a firm, and, I trust, a just opinion, that whatever renders religion more rational, renders it more credible; that he

[illegible] by a diligent and faithful examination of the original records, dismisses from the system one article which contradicts the apprehension, the experience, or the reasonings of mankind, does more towards recommending the belief, and, with the belief, the influence of Christianity, to the understandings and consciences of serious inquirers, and through them to universal reception and authority, than can be effected by a thousand [illegible] for creeds and [illegible] establishment.

When the [illegible] of Transubstantiation had taken [illegible] of the Christian world, it was [illegible] industry of learned men that [illegible] at length to be discovered, that no [illegible] was contained in the New Testament [illegible] had those excellent persons done nothing more by their discovery, than abolished an innocent superstition, or changed some directions in the ceremonial of public worship, they had [illegible] little of that veneration, with which the gratitude of Protestant Churches remembers their services. What they did for mankind, was this: they exonerated Christianity of a weight which sunk it. If [illegible] or timidity had checked these

exertions, or suppressed the fruit and publication of these inquiries, is it too much to affirm, that infidelity would at this day have been universal?

I do not mean, my Lord, by the mention of this example to insinuate, that any popular opinion which your Lordship may have encountered, ought to be compared with Transubstantiation, or that the assurance with which we reject that extravagant absurdity is attainable in the controversies in which your Lordship has been engaged: but I mean, by calling to mind those great reformers of the public faith, to observe, or rather to express my own persuasion, that to restore the purity, is most effectually to promote the progress, of Christianity; and that the same virtuous motive which hath sanctified their labours, suggested yours. At a time when some men appear not to perceive any good, and others to suspect an evil tendency, in that spirit of examination and research which is gone forth in Christian countries, this testimony is become due, not only to the probity of your Lordship's views, but to the general cause of intellectual and religious liberty.

That your Lordship's life may be prolonged in health and honour; that it may continue to afford an instructive proof, how serene and easy old age can be made by the memory of important and well-intended labours, by the possession of public and deserved esteem, by the presence of many grateful relatives; above all, by the resources of religion, by an unshaken confidence in the designs of a "faithful Creator," and a settled trust in the truth and in the promises of Christianity; is the fervent prayer of,

My Lord,

Your Lordship's dutiful,

Most obliged,

And most devoted servant,

WILLIAM PALEY.

Carlisle,
Feb. 10, 1785.

PREFACE.

In the treatises that I have met with upon the subject of *morals*, I appear to myself to have remarked the following imperfections;—either that the principle was erroneous, or that it was indistinctly explained, or that the rules deduced from it were not sufficiently adapted to real life and to actual situations. The writings of Grotius, and the larger work of Puffendorff, are of too *forensic* a cast, too much mixed up with civil law and with the jurisprudence of Germany, to answer precisely the design of a system of ethics,—the direction of private consciences in the general conduct of human life. Perhaps, indeed, they are not to be regarded as institutes of morality calculated to instruct an individual in his duty, so much as a species of law-books and law-authorities, suited to the practice of those courts of justice, whose decisions are regulated by general principles of natural equity, in conjunction with the maxims of the Roman code: of which kind, I understand, there are many upon the Continent. To which may be added, concerning both these authors, that they are more occupied in describing the rights and usages of independent communities, than is necessary in a work which professes not to adjust the correspondence of nations, but to delineate the offices of domestic life. The profusion

also of classical quotations with which many of their pages abound, seems to me a fault from which it will not be easy to excuse them. If these extracts be intended as decorations of style, the composition is overloaded with ornaments of one kind. To any thing more than ornament they can make no claim. To propose them as serious arguments; gravely to attempt to establish or fortify a moral duty by the testimony of a Greek or Roman poet, is to trifle with the attention of the reader, or rather to take it off from all just principles of reasoning in morals.

Of our own writers in this branch of philosophy, I find none that I think perfectly free from the three objections which I have stated. There is likewise a fourth property observable almost in all of them, namely, that they divide too much of the law of Nature from the precepts of Revelation; some authors industriously declining the mention of Scripture authorities, as belonging to a different province; and others reserving them for a separate volume: which appears to me much the same defect, as if a commentator on the laws of England should confine himself with stating upon each head the common law of the land, without taking any notice of acts of parliament; or should choose to give his readers the common law in one book, and the statute law in another. "When the obli-
"gations of morality are taught," says a pious and celebrated writer, "let the sanctions of Christia-
"nity never be forgotten: by which it will be

" shown that they give strength and lustre to each " other: religion will appear to be the voice of " reason, and morality will be the will of God*."

The *manner* also in which modern writers have treated of subjects of morality, is, in my judgement, liable to much exception. It has become of late a fashion to deliver moral institutes in strings or series of detached propositions, without subjoining a continued argument or regular dissertation to any of them. This sententious apophthegmatising style, by crowding propositions and paragraphs too fast upon the mind, and by carrying the eye of the reader from subject to subject in too quick a succession, gains not a sufficient hold upon the attention, to leave either the memory furnished, or the understanding satisfied. However useful a syllabus of topics or a series of propositions may be in the hands of a lecturer, or as a guide to a student, who is supposed to consult other books, or to institute upon each subject researches of his own, the method is by no means convenient for ordinary readers; because few readers are such *thinkers* as to want only a hint to set their thoughts at work upon; or such as will pause and tarry at every proposition, till they have traced out its dependency, proof, relation, and consequences, before they permit themselves to step on to another. A respectable writer of this class† has com-

* Preface to "The Preceptor," by Dr. Johnson.

† Dr. Ferguson, author of "Institutes of Moral Philosophy;" 1767.

prised his doctrine of slavery in the three following propositions:—

"No one is born a slave; because every one is "born with all his original rights."

"No one can become a slave; because no one "from being a person can, in the language of the "Roman law, become a thing, or subject of pro- "perty."

"The supposed property of the master in the "slave, therefore, is matter of usurpation, not of "right."

It may be possible to deduce from these few adages, such a theory of the primitive rights of human nature, as will evince the illegality of slavery: but surely an author requires too much of his reader, when he expects him to makes these deductions for himself; or to supply, perhaps from some remote chapter of the same treatise, the several proofs and explanations which are necessary to render the meaning and truth of these assertions intelligible.

There is a fault, the opposite of this, which some moralists who have adopted a different, and I think a better plan of composition, have not always been careful to avoid; namely, the dwelling upon verbal and elementary distinctions with a labour and prolixity proportioned much more to the subtlety of the question, than to its value and importance in the prosecution of the subject. A writer upon the law of nature *, whose explications

* Dr. Rutherforth, author of "Institutes of Natural Law."

in every part of philosophy, though always diffuse, are often very successful, has employed three long sections in endeavouring to prove that "permissions are not laws." The discussion of this controversy, however essential it might be to dialectic precision, was certainly not necessary to the progress of a work designed to describe the duties and obligations of civil life. The reader becomes impatient when he is detained by disquisitions which have no other object than the settling of terms and phrases; and, what is worse, they for whose use such books are chiefly intended, will not be persuaded to read them at all.

I am led to propose these strictures not by any propensity to depreciate the labours of my predecessors, much less to invite a comparison between the merits of their performances and my own; but solely by the consideration, that when a writer offers a book to the public, upon a subject on which the public are already in possession of many others, he is bound by a kind of literary justice to inform his readers, distinctly and specifically, what it is he professes to supply and what he expects to improve. The imperfections above enumerated, are those which I have endeavoured to avoid or remedy. Of the execution the reader must judge: but this was the design.

Concerning the *principle* of morals it would be premature to speak: but concerning the manner of unfolding and explaining that principle, I have somewhat which I wish to be remarked. An

experience of nine years in the office of a public tutor in one of the universities, and in that department of education to which these chapters relate, afforded me frequent occasions to observe, that in discoursing to young minds upon topics of morality, it required much more pains to make them perceive the difficulty, than to understand the solution; that, unless the subject was so drawn up to a point, as to exhibit the full force of an objection, or the exact place of a doubt, before any explanation was entered upon, — in other words, unless some curiosity was excited before it was attempted to be satisfied, the labour of the teacher was lost. When information was not desired, it was seldom, I found, retained. I have made this observation my guide in the following work: that is, upon each occasion I have endeavoured, before I suffered myself to proceed in the disquisition, to put the reader in complete possession of the question; and to do it in the way that I thought most likely to stir up his own doubts and solicitude about it.

In pursuing the principle of morals through the detail of cases to which it is applicable, I have had in view to accommodate both the choice of the subjects, and the manner of handling them, to the situations which arise in the life of an inhabitant of this country in these times. This is the thing that I think to be principally wanting in former treatises; and perhaps the chief advantage which will be found in mine. I have examined no

doubts, I have discussed no obscurities, I have encountered no errors. I have adverted to no controversies, but what I have seen actually to exist. If some of the questions treated of, appear to a more instructed reader minute or puerile, I desire such reader to be assured that I have found them occasions of difficulty to young minds; and what I have observed in young minds, I should expect to meet with in all who approach these subjects for the first time. Upon each article of human duty, I have combined with the conclusion of reason the declarations of Scripture, when they are to be had, as of co-ordinate authority, and as both terminating in the same sanctions.

In the manner of the work, I have endeavoured so to attemper the opposite plans above animadverted upon, as that the reader may not accuse me either of too much haste, or too much delay. I have bestowed upon each subject enough of dissertation to give a body and substance to the chapter in which it is treated of, as well as coherence and perspicuity: on the other hand, I have seldom, I hope, exercised the patience of the reader by the length and prolixity of my essays, or disappointed that patience at last by the tenuity and unimportance of the conclusion.

There are two particulars in the following work, for which it may be thought necessary that I should offer some excuse. The first of which is, that I have scarcely ever referred to any other

book or mentioned the name of the author whose thoughts and sometimes, possibly, whose very expressions I have adopted. My method of writing has constantly been this; to extract what I could from my own stores and my own reflections in the first place; to put down that, and afterwards to consult upon each subject such readings as fell in my way: which order, I am convinced, is the only one whereby any person can keep his thoughts from sliding into other men's trains. The effect of such a plan upon the production itself will be, that, whilst some parts in matter or manner may be new, others will be little else than a repetition of the old. I make no pretensions to perfect originality: I claim to be something more than a mere compiler. Much, no doubt, is borrowed; but the fact is, that the notes for this work having been prepared for some years, and such things having been from time to time inserted in them as appeared to me worth preserving, and such insertions made commonly without the name of the author from whom they were taken, I should, at this time, have found a difficulty in recovering those names with sufficient exactness to be able to render to every man his own. Nor, to speak the truth, did it appear to me worth while to repeat the search merely for this purpose. When authorities are relied upon, names must be produced: when a discovery has been made in science, it may be honest to borrow the invention without acknowledging the author. But in an argumen-

tative treatise, and upon a subject which allows no place for discovery or invention, properly so called; and in which all that can belong to a writer is his mode of reasoning, or his judgement of probabilities; I should have thought it superfluous, had it been easier to me than it was, to have interrupted my text, or crowded my margin with references to every author whose sentiments I have made use of. There is, however, one work to which I owe so much, that it would be ungrateful not to confess the obligation: I mean the writings of the late Abraham Tucker, Esq. part of which were published by himself, and the remainder since his death, under the title of "The Light of Nature pursued, by Edward Search, Esq." I have found in this writer more original thinking and observation upon the several subjects that he has taken in hand, than in any other, not to say, than in all others put together. His talent also for illustration is unrivalled. But his thoughts are diffused through a long, various, and irregular work. I shall account it no mean praise, if I have been sometimes able to dispose into method, to collect into heads and articles, or to exhibit in more compact and tangible masses, what, in that otherwise excellent performance, is spread over too much surface.

The next circumstance for which some apology may be expected, is the joining of moral and political philosophy together, or the addition of a book of politics to a system of ethics. Against

this objection, if it be made one, I might defend myself by the example of many approved writers, who have treated *de officiis hominis et civis*, or, as some choose to express it, "of the rights and "obligations of man, in his individual and social "capacity," in the same book. I might allege, also, that the part a member of the commonwealth shall take in political contentions, the vote he shall give, the counsels he shall approve, the support he shall afford, or the opposition he shall make, to any system of public measures,—is as much a question of personal duty, as much concerns the conscience of the individual who deliberates, as the determination of any doubt which relates to the conduct of private life; that consequently political philosophy is, properly speaking, a continuation of moral philosophy; or rather indeed a part of it, supposing moral philosophy to have for its aim the information of the human conscience in every deliberation that is likely to come before it. I might avail myself of these excuses, if I wanted them; but the vindication upon which I rely is the following. In stating the principle of morals, the reader will observe that I have employed some industry in explaining the theory, and showing the necessity of *general rules*; without the full and constant consideration of which, I am persuaded that no system of moral philosophy can be satisfactory or consistent. This foundation being laid, or rather this habit being formed, the discussion of

political subjects, to which more than to almost any other, general rules are applicable, became clear and easy. Whereas, had these topics been assigned to a distinct work, it would have been necessary to have repeated the same rudiments, to have established over again the same principles, as those which we had already exemplified, and rendered familiar to the reader, in the former parts of this. In a word, if there appear to any one too great a diversity, or too wide a distance between the subjects treated of in the course of the present volume, let him be reminded, that the doctrine of general rules pervades and connects the whole.

It may not be improper, however, to admonish the reader, that, under the name of *politics*, he is not to look for those occasional controversies, which the occurrences of the present day, or any temporary situation of public affairs, may excite; and most of which, if not beneath the dignity, it is beside the purpose of a philosophical institution to advert to. He will perceive that the several disquisitions are framed with a reference to the condition of this country, and of this government: but it seemed to me to belong to the design of a work like the following, not so much to discuss each altercated point with the particularity of a political pamphlet upon the subject, as to deliver those universal principles, and to exhibit that mode and train of reasoning in politics, by the due application of which every man might be enabled to attain to just conclusions of

his own. I am not ignorant of an objection that has been advanced against all abstract speculations concerning the origin, principle, or limitation of civil authority; namely, that such speculations possess little or no influence upon the conduct either of the state or of the subject, of the governors or the governed; nor are attended with any useful consequences to either; that in times of tranquillity they are not wanted; in times of confusion they are never heard. This representation, however, in my opinion, is not just. Times of tumult, it is true, are not the times to learn; but the choice which men make of their side and party, in the most critical occasions of the commonwealth, may nevertheless depend upon the lessons they have received, the books they have read, and the opinions they have imbibed, in seasons of leisure and quietness. Some judicious persons, who were present at Geneva during the troubles which lately convulsed that city, thought they perceived, in the contentions there carrying on, the operation of that political theory, which the writings of Rousseau, and the unbounded esteem in which these writings are holden by his countrymen, had diffused amongst the people. Throughout the political disputes that have within these few years taken place in Great Britain, in her sister kingdom, and in her foreign dependencies, it was impossible not to observe, in the language of party, in the resolutions of public meetings, in debate, in conversation,

in the general strain of those fugitive and diurnal addresses to the public which such occasions call forth, the prevalency of those ideas of civil authority which are displayed in the works of Mr. Locke. The credit of that great name, the courage and liberality of his principles, the skill and clearness with which his arguments are proposed, no less than the weight of the arguments themselves, have given a reputation and currency to his opinions, of which I am persuaded, in any unsettled state of public affairs, the influence would be felt. As this is not a place for examining the truth or tendency of these doctrines, I would not be understood by what I have said, to express any judgement concerning either. I mean only to remark, that such doctrines are not without effect; and that it is of *practical* importance to have the principles from which the obligations of social union, and the extent of civil obedience, are derived, rightly explained, and well understood. Indeed, as far as I have observed, in political beyond all other subjects, where men are without some fundamental and scientific principles to resort to, they are liable to have their understandings played upon by cant phrases and unmeaning terms, of which every party in every country possesses a vocabulary. We appear astonished when we see the multitude led away by sounds; but we should remember that, if sounds work miracles, it is always upon ignorance. The

influence of names is in exact proportion to the want of knowledge.

These are the observations with which I have judged it expedient to prepare the attention of my reader. Concerning the personal motives which engaged me in the following attempt, it is not necessary that I say much; the nature of my academical situation, a great deal of leisure since my retirement from it, the recommendation of an honoured and excellent friend, the authority of the venerable prelate to whom these labours are inscribed, the not perceiving in what way I could employ my time or talents better, and my disapprobation, in literary men, of that fastidious indolence, which sits still because it disdains to do *little*, were the considerations that directed my thoughts to this design. Nor have I repented of the undertaking. Whatever be the fate or reception of this work, it owes its author nothing. In sickness and in health I have found in it that which can alone alleviate the one, or give enjoyment to the other,—occupation and engagement.

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MORAL PHILOSOPHY.

BOOK I.

PRELIMINARY CONSIDERATIONS.

CHAPTER I.

DEFINITION AND USE OF THE SCIENCE.

Moral Philosophy, Morality, Ethics, Casuistry, Natural Law, mean all the same thing; namely, *that science which teaches men their duty and the reasons of it.*

The use of such a study depends upon this, that, without it, the rules of life, by which men are ordinarily governed, oftentimes mislead them, through a defect either in the rule, or in the application.

These rules are, the Law of Honour, the Law of the Land, and the Scriptures.

CHAPTER II.

THE LAW OF HONOUR.

THE Law of Honour, is a system of rules constructed by people of fashion, and calculated to facilitate their intercourse with one another; and for no other purpose.

Consequently, nothing is adverted to by the Law of Honour, but what tends to incommode this intercourse.

Hence this law only prescribes and regulates the duties *betwixt equals*; omitting such as relate to the Supreme Being, as well as those which we owe to our inferiors.

For which reason, profaneness, neglect of public worship or private devotion, cruelty to servants, rigorous treatment of tenants or other dependants, want of charity to the poor, injuries done to tradesmen by insolvency or delay of payment, with numberless examples of the same kind, are accounted no breaches of honour; because a man is not a less agreeable companion for these vices, nor the worse to deal with, in those concerns which are usually

transacted between one gentleman and another.

Again; the Law of Honour, being constituted by men occupied in the pursuit of pleasure, and for the mutual convenience of such men, will be found, as might be expected from the character and design of the law-makers, to be, in most instances, favourable to the licentious indulgence of the natural passions.

Thus it allows of fornication, adultery, drunkenness, prodigality, duelling, and of revenge in the extreme; and lays no stress upon the virtues opposite to these.

CHAPTER III.

THE LAW OF THE LAND.

That part of mankind, who are beneath the Law of Honour, often make the Law of the Land their rule of life; that is, they are satisfied with themselves, so long as they do or omit nothing, for the doing or omitting of which the law can punish them.

Whereas every system of human laws, considered as a rule of life, labours under the two following defects:

I. Human laws omit many duties, as not objects of compulsion; such as piety to God, bounty to the poor, forgiveness of injuries, education of children, gratitude to benefactors.

The law never speaks but to command, nor commands but where it can compel; consequently those duties, which by their nature must be *voluntary*, are left out of the statute-book, as lying beyond the reach of its operation and authority.

II. Human laws permit, or, which is the same thing, suffer to go unpunished, many crimes, because they are incapable of being defined by any previous description.—Of which nature are luxury, prodigality, partiality in voting at those elections in which the qualifications of the candidate ought to determine the success, caprice in the disposition of men's fortunes at their death, disrespect to parents, and a multitude of similar examples.

For, this is the alternative: either the law must define beforehand and with precision the offences which it punishes; or it must leave it to the *discretion* of the magistrate, to determine upon each particular accusation, whether it constitute that offence which the

law designed to punish, or not; which is, in effect, leaving to the magistrate to punish or not to punish, at his pleasure, the individual who is brought before him; which is just so much tyranny. Where, therefore, as in the instances above mentioned, the distinction between right and wrong is of too subtile or of too secret a nature to be ascertained by any preconcerted language, the law of most countries, especially of free states, rather than commit the liberty of the subject to the discretion of the magistrate, leaves men in such cases to themselves.

CHAPTER IV.

THE SCRIPTURES.

WHOEVER expects to find in the Scriptures a specific direction for every moral doubt that arises, looks for more than he will meet with. And to what a magnitude such a detail of particular precepts would have enlarged the sacred volume, may be partly understood from the following consideration:—The laws of this country, including the acts of the legislature, and the

decisions of our supreme courts of justice, are not contained in fewer than fifty folio volumes; and yet it is not once in ten attempts that you can find the case you look for, in any law-book whatever: to say nothing of those numerous points of conduct, concerning which the law professes not to prescribe or determine any thing. Had then the same particularity, which obtains in human laws so far as they go, been attempted in the Scriptures, throughout the whole extent of morality, it is manifest they would have been by much too bulky to be either read or circulated; or rather, as St. John says, "even the world itself "could not contain the books that should "be written."

Morality is taught in Scripture in this wise.—General rules are laid down, of piety, justice, benevolence, and purity: such as, worshipping God in spirit and in truth; doing as we would be done by; loving our neighbour as ourself; forgiving others, as we expect forgiveness from God; that mercy is better than sacrifice; that not that which entereth into a man (nor, by parity of reason, any ceremonial pollutions), but that which proceedeth from the

heart, defileth him. These rules are occasionally illustrated, either by *fictitious examples*, as in the parable of the good Samaritan; and of the cruel servant, who refused to his fellow-servant that indulgence and compassion which his master had shown to him: *or in instances which actually presented themselves*, as in Christ's reproof of his disciples at the Samaritan village; his praise of the poor widow, who cast in her last mite; his censure of the Pharisees who chose out of the chief rooms,—and of the tradition, whereby they evaded the command to sustain their indigent parents: *or, lastly, in the resolution of questions, which those who were about our Saviour proposed to him*; as his answer to the young man who asked him, "What lack I yet?" and to the honest scribe, who had found out, even in that age and country, that "to love God "and his neighbour, was more than all "whole burnt-offerings and sacrifice."

And this is in truth the way in which all practical sciences are taught, as Arithmetic, Grammar, Navigation, and the like.—Rules are laid down, and examples are subjoined: not that these examples are the cases, much less all the cases, which will actually occur:

but by way only of explaining the principle of the rule, and as so many specimens of the method of applying it. The chief difference is, that the examples in Scripture are not annexed to the rules with the didactic regularity to which we are now-a-days accustomed, but delivered dispersedly, as particular occasions suggested them; which gave them, however (especially to those who heard them, and were present to the occasions which produced them), an energy and persuasion, much beyond what the same or any instances would have appeared with, in their places in a system.

Beside this, the Scriptures commonly presuppose in the persons to whom they speak, a knowledge of the principles of natural justice; and are employed not so much to teach *new* rules of morality, as to enforce the practice of it by *new* sanctions, and by a *greater certainty*; which last seems to be the proper business of a revelation from God, and what was most wanted.

Thus the "unjust, covenant-breakers, and "extortioners," are condemned in Scripture, supposing it known, or leaving it, where it admits of doubt, to moralists to

determine, what injustice, extortion, or breach of covenant, are.

The above considerations are intended to prove that the Scriptures do not supersede the use of the science of which we profess to treat, and at the same time to acquit them of any charge of imperfection or insufficiency on that account.

CHAPTER V.

THE MORAL SENSE.

"THE father of *Caius Toranius* had been "proscribed by the triumvirate. *Caius* "*Toranius*, coming over to the interests of "that party, discovered to the officers, who "were in pursuit of his father's life, the "place where he concealed himself, and "gave them withal a description, by which "they might distinguish his person, when "they found him. The old man, more "anxious for the safety and fortunes of his "son, than about the little that might re-"main of his own life, began immediately "to inquire of the officers who seized him, "whether his son was well, whether he had "done his duty to the satisfaction of his

"generals. 'That son (replied one of the "officers), so dear to thy affections, be-"'trayed thee to us; by his information "'thou art apprehended, and diest.' The "officer with this, struck a poniard to his "heart, and the unhappy parent fell, not "so much affected by his fate, as by the "means to which he owed it*."

Now the question is, whether, if this story were related to the wild boy caught some years ago in the woods of Hanover, or to a savage without experience, and without instruction, cut off in his infancy from all intercourse with his species, and, consequently, under no possible influence of example, authority, education, sympathy, or habit; whether, I say, such a one would feel, upon the relation, any degree of *that sentiment of disapprobation of Toranius's conduct* which we feel, or not?

* "Caius Toranius triumvirûm partes secutus, pro-"scripti patris sui prætorii et ornati viri latebras, ætatem, "notasque corporis, quibus agnosci posset, centurionibus "edidit, qui eum persecuti sunt. Senex de filii magis "vitâ, et incrementis, quàm de reliquo spiritu suo solli-"citus, an incolumis esset, et an imperatoribus satisface-"ret, interrogare eos cœpit. E quibus unus: Ab illo, in-"quit, quem tantoperè diligis, demonstratus nostro minis-"terio, filii indicio occideris: protinusque pectus ejus gladio "transigit. Collapsus itaque est infelix, auctore cædis, "quàm ipsâ cæde, miserior."

VALER. MAX. lib. ix. cap. 11.

They who maintain the existence of a moral sense; of innate maxims; of a natural conscience; that the love of virtue and hatred of vice are instinctive; or the perception of right and wrong intuitive; (all which are only different ways of expressing the same opinion), affirm that he would.

They who deny the existence of a moral sense, &c. affirm that he would not.

And upon this, issue is joined.

As the experiment has never been made, and, from the difficulty of procuring a subject (not to mention the impossibility of proposing the question to him, if we had one), is never likely to be made, what would be the event, can only be judged of from probable reasons.

They who contend for the affirmative, observe, that we approve examples of generosity, gratitude, fidelity, &c. and condemn the contrary, instantly, without deliberation, without having any interest of our own concerned in them, oft-times without being conscious of, or able to give any reason for, our approbation: that this approbation is uniform and universal, the same sorts of conduct being approved or disapproved in all ages and countries of

the world;—circumstances, say they, which strongly indicate the operation of an instinct or moral sense.

On the other hand, answers have been given to most of these arguments, by the patrons of the opposite system: and,

First, as to the *uniformity* above alleged, they controvert the fact. They remark, from authentic accounts of historians and travellers, that there is scarcely a single vice which, in some age or country of the world, has not been countenanced by public opinion: that in one country, it is esteemed an office of piety in children to sustain their aged parents; in another, to dispatch them out of the way: that suicide, in one age of the world, has been heroism, is in another felony: that theft, which is punished by most laws, by the laws of Sparta was not unfrequently rewarded: that the promiscuous commerce of the sexes, although condemned by the regulations and censure of all civilized nations, is practised by the savages of the tropical regions without remorse, compunction, or disgrace: that crimes, of which it is no longer permitted us even to speak, have had their advocates amongst the sages of very renowned

times: that, if an inhabitant of the polished nations of Europe be delighted with the appearance, wherever he meets with it, of happiness, tranquillity, and comfort, a wild American is no less diverted with the writhings and contortions of a victim at the stake: that even amongst ourselves, and in the present improved state of moral knowledge, we are far from a perfect consent in our opinions or feelings: that you shall hear duelling alternately reprobated and applauded according to the sex, age, or station, of the person you converse with: that the forgiveness of injuries and insults is accounted by one sort of people magnanimity, by another meanness: that in the above instances, and perhaps in most others, moral approbation follows the fashions and institutions of the country we live in; which fashions also and institutions themselves have grown out of the exigencies, the climate, situation, or local circumstances of the country; or have been set up by the authority of an arbitrary chieftain, or the unaccountable caprice of the multitude:—all which, they observe, looks very little like the steady hand and indelible characters of nature. But,

Secondly, because, after these exceptions and abatements, it cannot be denied but that some sorts of actions command and receive the esteem of mankind *more* than others; and that the approbation of them is general though not universal: as to this they say, that the general approbation of virtue, even in instances where we have no interest of our own to induce us to it, may be accounted for, without the assistance of a moral sense; thus:

"Having experienced, in some instance, "a particular conduct to be beneficial to "ourselves, or observed that it would be so, "a sentiment of approbation rises up in our "minds; which sentiment afterwards ac- "companies the idea or mention of the same "conduct, although the private advantage "which first excited it no longer exist."

And this continuance of the passion, after the reason of it has ceased, is nothing more, say they, than what happens in other cases; especially in the love of money, which is in no person so eager, as it is oftentimes found to be in a rich old miser, without family to provide for, or friend to oblige by it, and to whom consequently it is no longer (and he may be sensible of it too) of any real

use or value; yet is this man as much overjoyed with gain, and mortified by losses, as he was the first day he opened his shop, and when his very subsistence depended upon his success in it.

By these means the custom of approving certain actions *commenced*: and when once such a custom hath got footing in the world, it is no difficult thing to explain how it is transmitted and continued; for *then* the greatest part of those who approve of virtue, approve of it from authority, by imitation, and from a habit of approving such and such actions, inculcated in early youth, and receiving, as men grow up, continual accessions of strength and vigour, from censure and encouragement, from the books they read, the conversations they hear, the current application of epithets, the general turn of language, and the various other causes by which it universally comes to pass, that a society of men, touched in the feeblest degree with the same passion, soon communicate to one another a great degree of it*. This is the case with most of us at

* "From instances of popular tumults, seditions, "factions, panics, and of all passions which are shared "with a multitude, we may learn the influence of society, "in exciting and supporting any emotion; while the

present; and is the cause also, that the *process of association*, described in the last paragraph but one, is little now either perceived or wanted.

Amongst the causes assigned for the continuance and diffusion of the same moral sentiments amongst mankind, we have mentioned *imitation*. The efficacy of this principle is most observable in children: indeed, if there be any thing in them, which deserves the name of an *instinct*, it is their *propensity to imitation*. Now there is nothing which children imitate or apply more readily than expressions of affection and aversion, of approbation, hatred, resentment, and the like; and when these passions and expressions are once connected, which they soon will be by the same association which unites words with their ideas, the passion will follow the expression, and attach upon the object to which the child has been accustomed to apply the

"most ungovernable disorders are raised, we find, by "that means, from the slightest and most frivolous oc- "casions. He must be more or less than man, who kin- "dles not in the common blaze. What wonder then, that "moral sentiments are found of such influence in life, "though springing from principles, which may appear at "first sight, somewhat small and delicate?"

Hume's Enquiry concerning the Principles of Morals, Sect. ix. p. 320.

epithet. In a word, when almost every thing else is learned by *imitation*, can we wonder to find the same cause concerned in the generation of our moral sentiments?

Another considerable objection to the system of moral instincts is this, that there are no maxims in the science, which can well be deemed *innate*, as none perhaps can be assigned, which are absolutely and universally *true*; in other words, which do not *bend* to circumstances. Veracity, which seems, if any be, a natural duty, is *excused* in many cases towards an enemy, a thief, or a madman. The obligation of promises, which is a first principle in morality, depends upon the circumstances under which they were made; they may have been unlawful, or become so since, or inconsistent with former promises, or erroneous, or extorted; under all which cases, instances may be suggested, where the obligation to perform the promise would be very dubious, and so of most other general rules, when they come to be actually applied.

An argument has been also proposed on the same side of the question, of this kind. Together with the instinct, there must have

been implanted, it is said, a clear and precise idea of the object upon which it was to attach. The instinct and the idea of the object are inseparable even in imagination, and as necessarily accompany each other as any correlative ideas whatever: that is, in plainer terms, if we be prompted by nature to the approbation of particular actions, we must have received also from nature a distinct conception of the action we are thus prompted to approve; which we certainly have not received.

But as this argument bears alike against all instincts, and against their existence in brutes as well as in men, it will hardly, I suppose, produce conviction, though it may be difficult to find an answer to it.

Upon the whole, it seems to me, either that there exist no such instincts as compose what is called the moral sense, or that they are not now to be distinguished from prejudices and habits; on which account they cannot be depended upon in moral reasoning: I mean that it is not a safe way of arguing, to assume certain principles as so many dictates, impulses, and instincts of nature, and then to draw conclusions from these principles, as to the rectitude or

wrongness of actions, independent of the tendency of such actions, or of any other consideration whatever.

Aristotle lays down, as a fundamental and self-evident maxim, that nature intended barbarians to be slaves; and proceeds to deduce from this maxim a train of conclusions, calculated to justify the policy which then prevailed. And I question whether the same maxim be not still self-evident to the company of merchants trading to the coast of Africa.

Nothing is so soon made, as a maxim; and it appears from the example of Aristotle, that authority and convenience, education, prejudice, and general practice, have no small share in the making of them; and that the laws of custom are very apt to be mistaken for the order of nature.

For which reason, I suspect, that a system of morality, built upon instincts, will only find out reasons and excuses for opinions and practices already established,—will seldom correct or reform either.

But further, suppose we admit the existence of these instincts, what, it may be asked, is their authority? No man, you say, can act in deliberate opposition to

them, without a secret remorse of conscience. But this remorse may be borne with: and if the sinner choose to bear with it, for the sake of the pleasure or the profit which he expects from his wickedness; or finds the pleasure of the sin to exceed the remorse of conscience, of which he alone is the judge, and concerning which, when he feels them both together, he can hardly be mistaken, the moral-instinct man, so far as I can understand, has nothing more to offer.

For if he allege that these instincts are so many indications of the will of God, and consequently presages of what we are to look for hereafter, this, I answer, is to resort to a rule and a motive, ulterior to the instincts themselves, and at which rule and motive we shall by-and-by arrive by a surer road:—I say *surer*, so long as there remains a controversy whether there be any instinctive maxims at all; or any difficulty in ascertaining what maxims are instinctive.

This celebrated question therefore becomes in our system a question of pure curiosity; and as such, we dismiss it to the determination of those who are more inquisitive, than we are concerned to be, about

the natural history and constitution of the human species.

CHAPTER VI.

HUMAN HAPPINESS.

THE word *happy* is a relative term: that is, when we call a man happy, we mean that he is happier than some others, with whom we compare him; than the generality of others; or than he himself was in some other situation:—thus, speaking of one who has just compassed the object of a long pursuit, "Now," we say, "he is "happy;" and in a like comparative sense, compared, that is, with the general lot of mankind, we call a man happy who possesses health and competency.

In strictness, any condition may be denominated happy, in which the amount or aggregate of pleasure exceeds that of pain; and the degree of happiness depends upon the quantity of this excess.

And the greatest quantity of it ordinarily attainable in human life, is what we mean by happiness, when we inquire or pro-

nounce what human happiness consists in*.

In which inquiry I will omit much usual declamation on the dignity and capacity of our nature; the superiority of the soul to the body, of the rational to the animal part of our constitution; upon the worthiness,

* If any *positive* signification, distinct from what we mean by pleasure, can be affixed to the term "happiness," I should take it to denote a certain state of the nervous system in that part of the human frame in which we feel joy and grief, passions and affections. Whether this part be the heart, which the turn of most languages would lead us to believe, or the diaphragm, as Buffon, or the upper orifice of the stomach, as Van Helmont, thought; or rather be a kind of fine net-work, lining the whole region of the præcordia, as others have imagined; it is possible, not only that each painful sensation may violently shake and disturb the fibres at the time, but that a series of such may at length so derange the very texture of the system, as to produce a perpetual irritation, which will show itself by fretfulness, impatience, and restlessness. It is possible also, on the other hand, that a succession of pleasurable sensations may have such an effect upon this subtile organization, as to cause the fibres to relax, and return into their place and order, and thereby to recover, or, if not lost, to preserve, that harmonious conformation which gives to the mind its sense of complacency and satisfaction. This state may be denominated happiness, and is so far distinguishable from pleasure, that it does not refer to any particular object of enjoyment, or consist, like pleasure, in the gratification of one or more of the senses, but is rather the secondary effect which such objects and gratifications produce upon the nervous system, or the state in which they leave it. These conjectures belong not, however, to our province. The comparative sense, in which we have explained the term Happiness, is more popular, and is sufficient for the purpose of the present chapter.

refinement, and delicacy, of some satisfactions, or the meanness, grossness, and sensuality, of others: because I hold that pleasures differ in nothing, but in continuance and intensity: from a just computation of which, confirmed by what we observe of the apparent cheerfulness, tranquillity, and contentment, of men of different tastes, tempers, stations, and pursuits, every question concerning human happiness must receive its decision.

It will be our business to show, if we can,

I. What Human Happiness does not consist in:

II. What it does consist in.

First, then, Happiness does not consist in the pleasures of sense, in whatever profusion or variety they be enjoyed. By the pleasures of sense, I mean, as well the animal gratifications of eating, drinking, and that by which the species is continued, as the more refined pleasures of music, painting, architecture, gardening, splendid shows, theatric exhibitions; and the pleasures, lastly, of active sports, as of hunting, shooting, fishing, &c. For,

1st, These pleasures continue but a little while at a time. This is true of them all,

especially of the grosser sort of them. Laying aside the preparation and the expectation, and computing strictly the actual sensation, we shall be surprised to find how inconsiderable a portion of our time they occupy, how few hours in the four-and-twenty they are able to fill up.

2dly, These pleasures, by repetition, lose their relish. It is a property of the machine, for which we know no remedy, that the organs, by which we perceive pleasure, are blunted and benumbed by being frequently exercised in the same way. There is hardly any one who has not found the difference between a gratification, when new, and when familiar; or any pleasure which does not become indifferent as it grows habitual.

3dly, The eagerness for high and intense delights takes away the relish from all others: and as such delights fall rarely in our way, the greater part of our time becomes, from this cause, empty and uneasy.

There is hardly any delusion by which men are greater sufferers in their happiness, than by their expecting too much from what is called pleasure; that is, from those intense delights, which vulgarly engross the name of pleasure. The very expectation

spoils them. When they do come, we are often engaged in taking pains to persuade ourselves how much we are pleased, rather than enjoying any pleasure, which springs naturally out of the object. And whenever we depend upon being vastly delighted, we always go home secretly grieved at missing our aim. Likewise, as has been observed just now, when this humour of being prodigiously delighted has once taken hold of the imagination, it hinders us from providing for, or acquiescing in, those gently soothing engagements, the due variety and succession of which are the only things that supply a vein or continued stream of happiness.

What I have been able to observe of that part of mankind, whose professed pursuit is pleasure, and who are withheld in the pursuit by no restraints of fortune, or scruples of conscience, corresponds sufficiently with this account. I have commonly remarked in such men, a restless and inextinguishable passion for variety; a great part of their time to be vacant, and so much of it irksome; and that, with whatever eagerness and expectation they set out, they become, by degrees, fastidious in their

choice of pleasure, languid in the enjoyment, yet miserable under the want of it.

The truth seems to be, that there is a limit at which these pleasures soon arrive, and from which they ever afterwards decline. They are by necessity of short duration, as the organs cannot hold on their emotions beyond a certain length of time; and if you endeavour to compensate for this imperfection in their nature by the frequency with which you repeat them, you suffer more than you gain, by the fatigue of the faculties, and the diminution of sensibility.

We have said nothing in this account, of the loss of opportunities, or the decay of faculties, which, whenever they happen, leave the voluptuary destitute and desperate; teased by desires that can never be gratified, and the memory of pleasures which must return no more.

It will also be allowed by those who have experienced it, and perhaps by those alone, that pleasure which is purchased by the incumbrance of our fortune, is purchased too dear; the pleasure never compensating for the perpetual irritation of embarrassed circumstances.

These pleasures, after all, have their value; and as the young are always too eager in their pursuit of them, the old are sometimes too remiss, that is, too studious of their ease, to be at the pains for them which they really deserve.

SECONDLY: Neither does happiness consist in an exemption from pain, labour, care, business, suspense, molestation, and "those evils which are without;" such a state being usually attended, not with ease, but with depression of spirits, a tastelessness in all our ideas, imaginary anxieties, and the whole train of hypochondriacal affections.

For which reason, the expectations of those, who retire from their shops and counting-houses, to enjoy the remainder of their days in leisure and tranquillity, are seldom answered by the effect; much less of such, as, in a fit of chagrin, shut themselves up in cloisters and hermitages, or quit the world, and their stations in it, for solitude and repose.

Where there exists a known external cause of uneasiness, the cause may be removed, and the uneasiness will cease. But those imaginary distresses which men feel for

want of real ones (and which are equally tormenting, and so far equally real), as they depend upon no single or assignable subject of uneasiness, admit oftentimes of no application of relief.

Hence a moderate pain, upon which the attention may fasten and spend itself, is to many a refreshment: as a fit of the gout will sometimes cure the spleen. And the same of any less violent agitation of the mind, as a literary controversy, a law-suit, a contested election, and, above all, gaming; the passion for which, in men of fortune and liberal minds, is only to be accounted for on this principle.

THIRDLY; Neither does happiness consist in greatness, rank, or elevated station.

Were it true that all superiority afforded pleasure, it would follow, that by how much we were the greater, that is, the more persons we were superior to, in the same proportion, so far as depended upon this cause, we should be the happier; but so it is, that no superiority yields any satisfaction, save that which we possess or obtain over those with whom we immediately compare ourselves. The shepherd perceives no pleasure in his superiority over his dog; the

farmer, in his superiority over the shepherd; the lord, in his superiority over the farmer; nor the king, lastly, in his superiority over the lord. Superiority, where there is no competition, is seldom contemplated; what most men are quite unconscious of.

But if the same shepherd can run, fight, or wrestle, better than the peasants of his village; if the farmer can show better cattle, if he keep a better horse, or be supposed to have a longer purse, than any farmer in the hundred; if the lord have more interest in an election, greater favour at court, a better house, or larger estate, than any nobleman in the county; if the king possess a more extensive territory, a more powerful fleet or army, a more splendid establishment, more loyal subjects, or more weight and authority in adjusting the affairs of nations, than any prince in Europe; in all these cases, the parties feel an actual satisfaction in their superiority.

Now the conclusion that follows from hence is this; that the pleasures of ambition, which are supposed to be peculiar to high stations, are in reality common to all conditions. The farrier who shoes a horse better, and who is in greater request for his

skill, than any man within ten miles of him, possesses, for all that I can see, the delight of distinction and of excelling, as truly and substantially as the statesman, the soldier, and the scholar, who have filled Europe with the reputation of their wisdom, their valour, or their knowledge.

No superiority appears to be of any account, but superiority over a rival. This, it is manifest, may exist wherever rivalships do; and rivalships fall out amongst men of all ranks and degrees. The object of emulation, the dignity or magnitude of this object, makes no difference: as it is not what either possesses that constitutes the pleasure, but what one possesses more than the other.

Philosophy smiles at the contempt with which the rich and great speak of the petty strifes and competitions of the poor; not reflecting that these strifes and competitions are just as reasonable as their own, and the pleasure, which success affords, the same.

Our position is, that happiness does not consist in greatness. And this position we make out by showing, that even what are supposed to be the peculiar advantages of greatness, the pleasures of ambition and

superiority, are in reality common to all conditions. But whether the pursuits of ambition be ever wise, whether they contribute more to the happiness or misery of the pursuers, is a different question; and a question concerning which we may be allowed to entertain great doubt. The pleasure of success is exquisite; so also is the anxiety of the pursuit, and the pain of disappointment;—and what is the worst part of the account, the pleasure is short-lived. We soon cease to look back upon those whom we have left behind; new contests are engaged in, new prospects unfold themselves; a succession of struggles is kept up, whilst there is a rival left within the compass of our views and profession; and when there is none, the pleasure with the pursuit is at an end.

II. We have seen what happiness does not consist in. We are next to consider in what it does consist.

In the conduct of life, the great matter is, to know beforehand, what will please us, and what pleasure will hold out. So far as we know this, our choice will be justified by the event. And this knowledge is more scarce and difficult than at first sight it may

seem to be: for sometimes, pleasures, which are wonderfully alluring and flattering in the prospect, turn out in the possession extremely insipid; or do not hold out as we expected: at other times, pleasures start up, which never entered into our calculation; and which we might have missed of by not foreseeing: whence we have reason to believe, that we actually do miss of many pleasures from the same cause. I say, to know "beforehand;" for, after the experiment is tried, it is commonly impracticable to retreat or change; beside that shifting and changing is apt to generate a habit of restlessness, which is destructive of the happiness of every condition.

By the reason of the original diversity of taste, capacity, and constitution, observable in the human species, and the still greater variety, which habit and fashion have introduced in these particulars, it is impossible to propose any plan of happiness, which will succeed to all, or any method of life which is universally eligible or practicable.

All that can be said is, that there remains a presumption in favour of those conditions of life, in which men generally appear most cheerful and contented. For though the

apparent happiness of mankind be not always a true measure of their real happiness, it is the best measure we have.

Taking this for my guide, I am inclined to believe that happiness consists,

I. In the exercise of the social affections.

Those persons commonly possess good spirits, who have about them many objects of affection and endearment, as wife, children, kindred, friends. And to the want of these may be imputed the peevishness of monks, and of such as lead a monastic life.

Of the same nature with the indulgence of our domestic affections, and equally refreshing to the spirits, is the pleasure which results from acts of bounty and beneficence, exercised either in giving money, or in imparting to those who want it, the assistance of our skill and profession.

Another main article of human happiness is,

II. The exercise of our faculties, either of body or mind, in the pursuit of some engaging end.

It seems to be true, that no plenitude of present gratifications can make the possessor happy for a continuance, unless he

have something in reserve,—something to hope for, and look forward to. This I conclude to be the case, from comparing the alacrity and spirits of men who are engaged in any pursuit which interests them, with the dejection and *ennui* of almost all, who are either born to so much that they want nothing more, or who have *used up* their satisfactions too soon, and drained the sources of them.

It is this intolerable vacuity of mind, which carries the rich and great to the horse-course and the gaming-table; and often engages them in contests and pursuits, of which the success bears no proportion to the solicitude and expense with which it is sought. An election for a disputed borough, shall cost the parties twenty or thirty thousand pounds each,—to say nothing of the anxiety, humiliation, and fatigue of the canvass; when, a seat in the house of commons, of exactly the same value, may be had for a tenth part of the money, and with no trouble. I do not mention this, to blame the rich and great (perhaps they cannot do better), but in confirmation of what I have advanced.

Hope, which thus appears to be of so

much importance to our happiness, is of two kinds;—where there is something to be done towards attaining the object of our hope, and where there is nothing to be done. The first alone is of any value; the latter being apt to corrupt into impatience, having no power but to sit still and wait, which soon grows tiresome.

The doctrine delivered under this head, may be readily admitted; but how to provide ourselves with a succession of pleasureable engagements, is the difficulty. This requires two things; judgement in the choice of *ends* adapted to our opportunities; and a command of imagination, so as to be able, when the judgement has made choice of an end, to transfer a pleasure to the *means*: after which, the end may be forgotten as soon as we will.

Hence those pleasures are most valuable, not which are most exquisite in the fruition, but which are most productive of engagement and activity in the pursuit.

A man who is in earnest in his endeavours after the happiness of a future state, has, in this respect, an advantage over all the world: for, he has constantly before his eyes an object of supreme importance.

productive of perpetual engagement and activity, and of which the pursuit (which can be said of no pursuit besides) lasts him to his life's end. Yet even he must have many ends, besides the *far end;* but then they will conduct to that, be subordinate, and in some way or other capable of being referred to that, and derive their satisfaction, or an addition of satisfaction, from that.

Engagement is every thing: the more significant, however, our engagements are, the better: such as the planning of laws, institutions, manufactures, charities, improvements, public works; and the endeavouring, by our interest, address, solicitations, and activity, to carry them into effect: or, upon a smaller scale, the procuring of a maintenance and fortune for our families by a course of industry and application to our callings, which forms and gives motion to the common occupations of life; training up a child; prosecuting a scheme for his future establishment; making ourselves masters of a language or a science; improving or managing an estate; labouring after a piece of preferment; and lastly, *any* engagement, which

is innocent, is better than none; as the writing a book, the building of a house, the laying out of a garden, the digging of a fish-pond,—even the raising of a cucumber or a tulip.

Whilst our minds are taken up with the objects or business before us, we are commonly happy, whatever the object or business be; when the mind is *absent*, and the thoughts are wandering to something else than what is passing in the place in which we are, we are often miserable.

III. Happiness depends upon the prudent constitution of the habits.

The art in which the secret of human happiness in a great measure consists, is to *set* the habits in such a manner, that every change may be a change for the better. The habits themselves are much the same; for, whatever is made habitual, becomes smooth, and easy, and nearly indifferent. The return to an old habit is likewise easy, whatever the habit be. Therefore the advantage is with those habits which allow of an indulgence in the deviation from them. The luxurious receive no greater pleasure from their dainties, than the peasant does from his bread and cheese: but the pea-

sant, whenever he goes abroad, finds a feast: whereas the epicure must be well entertained, to escape disgust. Those who spend every day at cards, and those who go every day to plough, pass their time much alike; intent upon what they are about, wanting nothing, regretting nothing, they are both for the time in a state of ease: but then, whatever suspends the occupation of the card-player, distresses him; whereas to the labourer, every interruption is a refreshment: and this appears in the different effects that Sunday produces upon the two, which proves a day of recreation to the one, but a lamentable burthen to the other. The man who has learned to live alone, feels his spirits enlivened whenever he enters into company, and takes his leave without regret; another, who has long been accustomed to a crowd, or continual succession of company, experiences in company no elevation of spirits, nor any greater satisfaction, than what the man of a retired life finds in his chimney-corner. So far their conditions are equal; but let a change of place, fortune, or situation, separate the companion from his circle, his visitors, his club, common-room, or coffee-house;

and the difference and advantage in the choice and constitution of the two habits will show itself. Solitude comes to the one, clothed with melancholy; to the other, it brings liberty and quiet. You will see the one fretful and restless, at a loss how to dispose of his time, till the hour come round when he may forget himself in bed; the other easy and satisfied, taking up his book or his pipe, as soon as he finds himself alone; ready to admit any little amusement that casts up, or to turn his hands and attention to the first business that presents itself; or content, without either, to sit still, and let his train of thought glide indolently through his brain, without much use, perhaps, or pleasure, but without *hankering* after any thing better, and without irritation.—A reader, who has inured himself to books of science and argumentation, if a novel, a well-written pamphlet, an article of news, a narrative of a curious voyage, or a journal of a traveller, fall in his way, sits down to the repast with relish; enjoys his entertainment while it lasts, and can return, when it is over, to his graver reading, without distaste. Another, with whom nothing will go down but works of

humour and pleasantry, or whose curiosity must be interested by perpetual novelty, will consume a bookseller's window in half a forenoon: during which time he is rather in search of diversion than diverted; and as books to his taste are few, and short, and rapidly read over, the stock is soon exhausted, when he is left without resource from this principal supply of harmless amusement.

So far as circumstances of fortune conduce to happiness, it is not the income, which any man possesses, but the increase of income, that affords the pleasure. Two persons, of whom one begins with a hundred, and advances his income to a thousand pounds a year, and the other sets off with a thousand, and dwindles down to a hundred, may, in the course of their time, have the receipt and spending of the same sum of money: yet their satisfaction, so far as fortune is concerned in it, will be very different; the series and sum total of their incomes being the same, it makes a wide difference at which end they begin.

IV. Happiness consists in health.

By health I understand, as well freedom from bodily distempers, as that tranquillity,

firmness, and alacrity of mind, which we call good spirits; and which may properly enough be included in our notion of health, as depending commonly upon the same causes, and yielding to the same management, as our bodily constitution.

Health, in this sense, is the one thing needful. Therefore no pains, expense, self-denial, or restraint, to which we subject ourselves for the sake of health, is too much. Whether it require us to relinquish lucrative situations, to abstain from favourite indulgences, to control intemperate passions, or undergo tedious regimens; whatever difficulties it lays us under, a man, who pursues his happiness rationally and resolutely, will be content to submit.

When we are in perfect health and spirits, we feel in ourselves a happiness independent of any particular outward gratification whatever, and of which we can give no account. This is an enjoyment which the Deity has annexed to life; and it probably constitutes, in a great measure, the happiness of infants and brutes, especially of the lower and sedentary orders of animals, as of oysters, periwinkles, and the

like; for which I have sometimes been at a loss to find out amusement.

The above account of human happiness will justify the two following conclusions, which, although found in most books of morality, have seldom, I think, been supported by any sufficient reasons:—

FIRST, that happiness is pretty equally distributed amongst the different orders of civil society:

SECONDLY, that vice has no advantage over virtue, even with respect to this world's happiness.

CHAPTER VII.

VIRTUE.

VIRTUE is "*the doing good to mankind, in "obedience to the will of God, and for the "sake of everlasting happiness.*"

According to which definition, "the good "of mankind" is the subject; the "will of "God," the rule; and "everlasting happi-"ness," the motive of human virtue.

Virtue has been divided by some moralists into *benevolence*, *prudence*, *fortitude*, and *temperance*. *Benevolence* proposes good ends; *prudence* suggests the best means of attaining them; *fortitude* enables us to encounter the difficulties, dangers, and discouragements, which stand in our way in the pursuit of these ends; *temperance* repels and overcomes the passions that obstruct it. *Benevolence*, for instance, prompts us to undertake the cause of an oppressed orphan; *prudence* suggests the best means of going about it; *fortitude* enables us to confront the danger, and bear up against the loss, disgrace, or repulse, that may attend our undertaking; and *temperance* keeps under the love of money, of ease, or amusement, which might divert us from it.

Virtue is distinguished by others into two branches only, *prudence* and *benevolence*; *prudence*, attentive to our own interest; *benevolence*, to that of our fellow-creatures: both directed to the same end, the increase of happiness in nature; and taking equal concern in the future as in the present.

The four CARDINAL virtues are, *prudence*, *fortitude*, *temperance*, and *justice*.

But the division of virtue, to which we

are in modern times most accustomed, is into duties;—

Towards *God;* as piety, reverence, resignation, gratitude, &c.

Towards *other men* (or relative duties); as justice, charity, fidelity, loyalty, &c.

Towards *ourselves;* as chastity, sobriety, temperance, preservation of life, care of health, &c.

More of these distinctions have been proposed, which it is not worth while to set down.

I shall proceed to state a few observations, which relate to the general regulation of human conduct; unconnected indeed with each other, but very worthy of attention; and which fall as properly under the title of this chapter as of any future one.

I. Mankind act more from habit than reflection.

It is on few only and great occasions that men deliberate at all; on fewer still, that they institute any thing like a regular inquiry into the moral rectitude or depravity of what they are about to do; or wait for the result of it. We are for the most part determined at once; and by an impulse,

which is the effect and energy of pre-established habits. And this constitution seems well adapted to the exigencies of human life, and to the imbecility of our moral principle. In the current occasions and rapid opportunities of life, there is oftentimes little leisure for reflection; and were there more, a man, who has to reason about his duty, when the temptation to transgress it is upon him, is almost sure to reason himself into an error.

If we are in so great a degree passive under our habits; where, it is asked, is the exercise of virtue, the guilt of vice, or any use of moral and religious knowledge? I answer, In the *forming and contracting* of these habits.

And hence results a rule of life of considerable importance, *viz.* that many things are to be done and abstained from, solely for the sake of habit. We will explain ourselves by an example or two.—A beggar, with the appearance of extreme distress, asks our charity. If we come to argue the matter, whether the distress be real, whether it be not brought upon himself, whether it be of public advantage to admit such applications, whether it be not

to encourage idleness and vagrancy, whether it may not invite impostors to our doors, whether the money can be well spared, or might not be better applied; when these considerations are put together, it may appear very doubtful, whether we ought or ought not to give any thing. But when we reflect, that the misery before our eyes excites our pity, whether we will or not; that it is of the utmost consequence to us to cultivate this tenderness of mind; that it is a quality, cherished by indulgence, and soon stifled by opposition; when this, I say, is considered, a wise man will do that for his own sake, which he would have hesitated to do for the petitioner's; he will give way to his compassion, rather than offer violence to a habit of so much general use.

A man of confirmed good habits, will act in the same manner without any consideration at all.

This may serve for one instance; another is the following.—A man has been brought up from his infancy with a dread of lying. An occasion presents itself where, at the expense of a little veracity, he may divert his company, set off his own wit with ad-

vantage, attract the notice and engage the partiality of all about him. This is not a small temptation. And when he looks at the other side of the question, he sees no mischief that can ensue from this liberty, no slander of any man's reputation, no prejudice likely to arise to any man's interest. Were there nothing further to be considered, it would be difficult to show why a man under such circumstances might not indulge his humour. But when he reflects that his scruples about lying have hitherto preserved him free from this vice; that occasions like the present will return, where the inducement may be equally strong, but the indulgence much less innocent; that his scruples will wear away by a few transgressions, and leave him subject to one of the meanest and most pernicious of all bad habits,—a habit of lying, whenever it will serve his turn: when all this, I say, is considered, a wise man will forego the present, or a much greater pleasure, rather than lay the foundation of a character so vicious and contemptible.

From what has been said, may be explained also the nature of *habitual* virtue. By the definition of Virtue, placed at the

beginning of this chapter, it appears, that the good of mankind is the subject, the will of God the rule, and everlasting happiness the motive and end of all virtue. Yet, in fact, a man shall perform many an act of virtue, without having either the good of mankind, the will of God, or everlasting happiness, in his thought. How is this to be understood? In the same manner as that a man may be a very good servant, without being conscious, at every turn, of a particular regard to his master's will, or of an express attention to his master's interest; indeed, your best old servants are of this sort: but then he must have served for a length of time under the actual direction of these motives, to bring it to this: in which service, his merit and virtue consist.

There are *habits*, not only of drinking, swearing, and lying, and of some other things, which are commonly acknowledged to be habits, and called so; but of every modification of action, speech, and thought. Man is a bundle of habits.

There are habits of industry, attention, vigilance, advertency; of a prompt obedience to the judgement occurring, or of

yielding to the first impulse of passion; of extending our views to the future, or of resting upon the present; of apprehending, methodising, reasoning; of indolence and dilatoriness; of vanity, self-conceit, melancholy, partiality; of fretfulness, suspicion, captiousness, censoriousness; of pride, ambition, covetousness; of overreaching, intriguing, projecting: in a word, there is not a quality or function, either of body or mind, which does not feel the influence of this great law of animated nature.

II. The Christian Religion hath not ascertained the precise quantity of virtue necessary to salvation.

This has been made an objection to Christianity; but without reason. For, as all revelation, however imparted originally, must be transmitted by the ordinary vehicle of language, it behoves those who make the objection, to show that any form of words could be devised, what might express this *quantity*; or that it is possible to constitute a standard of moral attainments, accommodated to the almost infinite diversity which subsists in the capacities and opportunities of different men.

It seems most agreeable to our concep-

tions of justice, and is consonant enough to the language of Scripture*, to suppose, that there are prepared for us rewards and punishments, of all possible degrees, from the most exalted happiness down to extreme misery; so that "our labour is never "in vain;" whatever advancement we make in virtue, we procure a proportionable accession of future happiness; as, on the other hand, every accumulation of vice is the "treasuring up so much wrath against "the day of wrath." It has been said, that it can never be a just economy of Providence, to admit one part of mankind into heaven, and condemn the other to hell; since there must be very little to choose, between the worst man who is received

* "He which soweth sparingly, shall reap also spa-"ringly; and he which soweth bountifully, shall reap "also bountifully." 2 Cor. ix. 6.—"And that servant "which knew his Lord's will, and prepared not himself, "neither did according to his will, shall be beaten with "many stripes; but he that knew not, shall be beaten "with few stripes." Luke xii. 47, 48.—"Whosoever "shall give you a cup of water to drink in my name, "because ye belong to Christ; verily I say unto you, "he shall not lose his reward;" to wit, intimating that there is in reserve a proportionable reward for even the smallest act of virtue. Mark ix. 41.—See also the parable of the pounds, Luke xix. 16, &c.; where he whose pound had gained ten pounds, was placed over ten cities; and he whose pound had gained five pounds, was placed over five cities.

into heaven, and the best who is excluded. And how know we, it might be answered, but that there may be as little to choose in the conditions?

Without entering into a detail of Scripture morality, which would anticipate our subject, the following general positions may be advanced, I think, with safety.

1. That a state of happiness is not to be expected by those who are conscious of no moral or religious rule. I mean those who cannot with truth say, that they have been prompted to one action, or withholden from one gratification, by any regard to virtue or religion, either immediate or habitual.

There needs no other proof of this, than the consideration, that a brute would be as proper an object of reward as such a man, and that, if the case were so, the penal sanctions of religion could have no place. For, whom would you punish, if you make such a one as this happy?—or rather indeed religion itself, both natural and revealed, would cease to have either use or authority.

2. That a state of happiness is not to be expected by those, who reserve to themselves the habitual practice of any one sin, or neglect of one known duty.

Because, no obedience can proceed upon proper motives, which is not universal, that is, which is not directed to every command of God alike, as they all stand upon the same authority.

Because such an allowance would in effect amount to a toleration of every vice in the world.

And because the strain of Scripture language excludes any such hope. When our *duties* are recited, they are put *collectively*, that is, as all and every of them required in the Christian character. "*Add* to your "faith virtue, and to virtue knowledge, "and to knowledge temperance, and to "temperance patience, and to patience "godliness, and to godliness brotherly "kindness, and to brotherly kindness "charity*." On the other hand, when *vices* are enumerated, they are put *disjunctively*, that is, as separately and severally excluding the sinner from heaven. "*Neither* for-"nicators, nor idolaters, nor adulterers, "nor effeminate, nor abusers of themselves "with mankind, nor thieves, nor covetous, "nor drunkards, nor revilers, nor extor-

* 2 Pet i. 5, 6, 7.

" tioners, shall inherit the kingdom of " heaven*."

Those texts of Scripture, which seem to lean a contrary way, as that " charity shall " cover the multitude of sins†;" that " he " which converteth a sinner from the error " of his way, shall hide a multitude of " sins‡;" cannot, I think, for the reasons above mentioned, be extended to sins deliberately, habitually, and obstinately persisted in.

3. That a state of mere unprofitableness will not go unpunished.

This is expressly laid down by Christ, in the parable of the talents, which supersedes all farther reasoning upon the subject. " Then he which hath received one talent, " came and said, Lord, I know thee that " thou art an austere man, reaping where " thou hast not sown, and gathering where " thou hast not strawed; and I was afraid, " and hid thy talent in the earth; lo, there " thou hast that is thine. His lord, an- " swered and said unto him, Thou wicked " and *slothful* servant, thou knewest (or, " knewest thou?) that I reap where I sowed

* 1. Cor. vi. 9, 10. † 1 Pet. iv. 8. ‡ James, v. 20.

" not, and gather where I have not strawed;
" thou oughtest therefore to have put my
" money to the exchangers, and then at
" my coming I should have received mine
" own with usury. Take therefore the ta-
" lent from him, and give it unto him which
" hath ten talents: for unto every one that
" hath shall be given, and he shall have
" abundance; but from him that hath not,
" shall be taken away even that which he
" hath: *and cast ye the unprofitable servant*
" *into outer darkness, there shall be weeping*
" *and gnashing of teeth**."

III. In every question of conduct, where one side is doubtful, and the other side safe; we are bound to take the safe side.

This is best explained by an instance; and I know of none more to our purpose than that of suicide. Suppose, for example's sake, that it appear doubtful to a reasoner upon the subject, whether he may lawfully destroy himself. He can have no doubt, but that it is lawful for him to let it alone. Here therefore is a case, in which one side is doubtful, and the other side safe. By virtue therefore of our rule, he is bound to

* Matt. xxv. 24, &c.

pursue the safe side, that is, to forbear from offering violence to himself, whilst a doubt remains upon his mind concerning the lawfulness of suicide.

It is *prudent*, you allow, to take the safe side. But our observation means something more. We assert that the action, concerning which we doubt, whatever it may be in itself, or to another, would, in *us*, whilst this doubt remains upon our minds, be certainly sinful. The case is expressly so adjudged by Saint Paul, with whose authority we will for the present rest contented.—"I know and am persuaded "by the Lord Jesus, that there is nothing "unclean of itself; but *to him that esteemeth* "*any thing to be unclean, to him it is unclean.* "—Happy is he that condemneth not him- "self in that thing which he alloweth; and "he that doubteth, is damned *(condemned)* "if he eat, for whatsoever is not of faith "*(i. e.* not done with a full persuasion of "the lawfulness of it) is sin*."

* Rom. xiv. 14. 22, 23.

MORAL PHILOSOPHY.

BOOK II.

MORAL OBLIGATION.

CHAPTER I.

THE QUESTION, *WHY AM I OBLIGED TO KEEP MY WORD?* CONSIDERED.

WHY am I obliged to keep my word?

Because it is right, says one.—Because it is agreeable to the fitness of things, says another.—Because it is conformable to reason and nature, says a third.—Because it is conformable to truth, says a fourth.—Because it promotes the public good, says a fifth.—Because it is required by the will of God, concludes a sixth.

Upon which different accounts, two things are observable:—

FIRST, that they all ultimately coincide. The fitness of things, means their fitness to produce happiness: the nature of things, means that actual constitution of the world, by which some things, as such and such

actions, for example, produce happiness, and others misery: reason is the principle, by which we discover or judge of this constitution: truth, is this judgment expressed or drawn out into propositions. So that it necessarily comes to pass, that what promotes the public happiness, or happiness on the whole, is agreeable to the fitness of things, to nature, to reason, and to truth: and such (as will appear by-and-by) is the Divine character, that what promotes the general happiness, is required by the will of God; and what has all the above properties, must needs be *right*; for, right means no more than conformity to the rule we go by, whatever that rule be.

And this is the reason that moralists, from whatever different principles they set out, commonly meet in their conclusions; that is, they enjoin the same conduct, prescribe the same rules of duty, and, with a few exceptions, deliver upon dubious cases the same determinations.

Secondly, it is to be observed, that these answers all leave the matter *short*; for, the enquirer may turn round upon his teacher with a second question, in which he will expect to be satisfied, namely, *Why*

am I obliged to do what is right; to act agreeably to the fitness of things; to conform to reason, nature, or truth; to promote the public good, or to obey the will of God?

The proper method of conducting the inquiry is, FIRST, to examine what we mean, when we say a man is *obliged* to do any thing, and THEN to show *why* he is obliged to do the thing which we have proposed as an example, namely, "to keep "his word."

CHAPTER II.

WHAT WE MEAN WHEN WE SAY A MAN IS *OBLIGED* TO DO A THING.

A MAN is said to be *obliged*, "*when he is* "*urged by a violent motive resulting from* "*the command of another.*"

I. "The motive must be violent." If a person, who has done me some little service, or has a small place in his disposal, ask me upon some occasion for my vote, I may possibly give it him, from a motive of gratitude or expectation: but I should hardly say that I was *obliged* to give it him; because

the inducement does not rise high enough. Whereas if a father or a master, any great benefactor, or one on whom my fortune depends, require my vote, I give it him of course: and my answer to all who ask me why I voted so and so, is, that my father or my master *obliged* me; that I had received so many favours from, or had so great a dependence upon, such a one, that I was *obliged* to vote as he directed me.

SECONDLY, "It must result from the "command of another." Offer a man a gratuity for doing any thing, for seizing, for example, an offender, he is not *obliged* by your offer to do it; nor would he say he is; though he may be *induced, persuaded, prevailed upon, tempted.* If a magistrate or the man's immediate superior command it, he considers himself as *obliged* to comply, though possibly he would lose less by a refusal in this case, than in the former.

I will not undertake to say that the words *obligation* and *obliged* are used uniformly in this sense, or always with this distinction: nor is it possible to tie down popular phrases to any constant signification: but wherever the motive is violent enough, and coupled with the idea of command, authority, law,

or the will of a superior, there, I take it, we always reckon ourselves to be *obliged*.

And from this account of obligation it follows, that we can be obliged to nothing, but what we ourselves are to gain or lose something by: for nothing else can be a "violent motive" to us. As we should not be obliged to obey the laws, or the magistrate, unless rewards or punishments, pleasure or pain, somehow or other, depended upon our obedience; so neither should we, without the same reason, be obliged to do what is right, to practise virtue, or to obey the commands of God.

CHAPTER III.

THE QUESTION, *WHY AM I OBLIGED TO KEEP MY WORD?* RESUMED.

Let it be remembered, that to be *obliged*, "is to be urged by a violent motive, result-"ing from the command of another."

And then let it be asked, Why am I *obliged* to keep my word? and the answer will be, Because I am "urged to do so by "a violent motive" (namely, the expecta-

tion of being after this life rewarded, if I do, or punished for it, if I do not), "resulting "from the command of another" (namely, of God).

This solution goes to the bottom of the subject, as no farther question can reasonably be asked.

Therefore, private happiness is our motive, and the will of God our rule.

When I first turned my thoughts to moral speculations, an air of mystery seemed to hang over the whole subject; which arose, I believe, from hence,—that I supposed, with many authors, whom I had read, that to be *obliged* to do a thing, was very different from being *induced* only to do it; and that the obligation to practise virtue, to do what is right, just, &c. was quite another thing, and of another kind, than the obligation which a soldier is under to obey his officer, a servant his master; or any of the civil and ordinary obligations of human life. Whereas, from what has been said it appears, that moral obligation is like all other obligations; and that *obligation* is nothing more than an *inducement* of sufficient strength, and resulting, in some way, from the command of another.

There is always understood to be a difference between an act of *prudence* and an act of *duty*. Thus, if I distrusted a man who owed me a sum of money, I should reckon it an act of prudence to get another person bound with him; but I should hardly call it an act of duty. On the other hand, it would be thought a very unusual and loose kind of language, to say, that, as I had made such a promise, it was *prudent* to perform it; or that, as my friend, when he went abroad, placed a box of jewels in my hands, it would be *prudent* in me to preserve it for him till he returned.

Now, in what, you will ask, does the difference consist? inasmuch as, according to our account of the matter, both in the one case and the other, in acts of duty as well as acts of prudence, we consider solely what we ourselves shall gain or lose by the act.

The difference, and the only difference, is this; that, in the one case we consider what we shall gain or lose in the present world; in the other case, we consider also what we shall gain or lose in the world to come.

They who would establish a system of

morality, independent of a future state, must look out for some different idea of moral obligation; unless they can show that virtue conducts the possessor to certain happiness in this life, or to a much greater share of it than he could attain by a different behaviour.

To us there are two great questions:

I. Will there be after this life any distribution of rewards and punishments at all?

II. If there be, what actions will be rewarded, and what will be punished?

The first question comprises the credibility of the Christian Religion, together with the presumptive proofs of a future retribution from the light of nature. The second question comprises the province of morality. Both questions are too much for one work. The affirmative therefore of the first, although we confess that it is the foundation upon which the whole fabric rests, must in this treatise be taken for granted.

CHAPTER IV.

THE WILL OF GOD.

As the will of God is our rule, to inquire what is our duty, or what we are obliged to do, in any instance, is, in effect, to inquire, what is the will of God in that instance? which consequently becomes the whole business of morality.

Now there are two methods of coming at the will of God on any point:

I. By his express declarations, when they are to be had, and which must be sought for in Scripture.

II. By what we can discover of his designs and disposition from his works; or, as we usually call it, the light of nature.

And here we may observe the absurdity of separating natural and revealed religion from each other. The object of both is the same,—to discover the will of God,—and, provided we do but discover it, it matters nothing by what means.

An ambassador, judging by what he

knows of his sovereign's disposition, and arguing from what he has observed of his conduct, or is acquainted with of his designs, may take his measures in many cases with safety, and presume with great probability how his master would have him act on most occasions that arise: but if he have his commission and instructions in his pocket, it would be strange not to look into them. He will be directed by both rules: when his instructions are clear and positive, there is an end to all farther deliberation (unless indeed he suspect their authenticity): where his instructions are silent or dubious, he will endeavour to supply or explain them, by what he has been able to collect from other quarters of his master's general inclination or intentions.

Mr. Hume, in his fourth Appendix to his Principles of Morals, has been pleased to complain of the modern scheme of uniting Ethics with the Christian Theology. They who find themselves disposed to join in this complaint, will do well to observe what Mr. HUME himself has been able to make of morality without this union. And for that purpose, let them read the second part of the ninth section of the above essay; which

part contains the practical application of the whole treatise,—a treatise, which Mr. Hume declares to be "incomparably the "best he ever wrote." When they have read it over, let them consider, whether any motives there proposed are likely to be found sufficient to withhold men from the gratification of lust, revenge, envy, ambition, avarice; or to prevent the existence of these passions. Unless they rise up from this celebrated essay, with stronger impressions upon their minds than it ever left upon mine, they will acknowledge the necessity of additional sanctions. But the necessity of these sanctions is not now the question. If they be *in fact established*, if the rewards and punishments held forth in the gospel will actually come to pass, they *must* be considered. Such as reject the Christian Religion, are to make the best shift they can to build up a system, and lay the foundation of morality without it. But it appears to me a great inconsistency in those who receive Christianity, and expect something to come of it, to endeavour to keep all such expectations out of sight in their reasonings concerning human duty.

The method of coming at the will of God, concerning any action, by the light of nature, is to inquire into "the tendency "of the action to promote or diminish the "general happiness." This rule proceeds upon the presumption, that God Almighty wills and wishes the happiness of his creatures; and, consequently, that those actions, which promote that will and wish, must be agreeable to him; and the contrary.

As this presumption is the foundation of our whole system, it becomes necessary to explain the reasons upon which it rests.

CHAPTER V.

THE DIVINE BENEVOLENCE.

When God created the human species, either he wished their happiness, or he wished their misery, or he was indifferent and unconcerned about both.

If he had wished our misery, he might have made sure of his purpose, by forming our senses to be so many sores and pains to us, as they are now instruments of gratification and enjoyment; or by placing us

amidst objects so ill-suited to our perceptions, as to have continually offended us, instead of ministering to our refreshment and delight. He might have made, for example, every thing we tasted bitter; every thing we saw loathsome; every thing we touched a sting; every smell a stench; and every sound a discord.

If he had been indifferent about our happiness or misery, we must impute to our good fortune (as all design by this supposition is excluded) both the capacity of our senses to receive pleasure, and the supply of external objects fitted to produce it.

But either of these (and still more both of them) being too much to be attributed to accident, nothing remains but the first supposition, that God, when he created the human species, wished their happiness; and made for them the provision which he has made, with that view, and for that purpose.

The same argument may be proposed in different terms, thus: Contrivance proves design; and the predominant tendency of the contrivance indicates the disposition of the designer. The world abounds with contrivances: and all the contrivances which we are acquainted with, are directed

to beneficial purposes. Evil, no doubt, exists; but is never, that we can perceive, the object of contrivance. Teeth are contrived to eat, not to ache; their aching now and then, is incidental to the contrivance, perhaps inseparable from it: or even, if you will, let it be called a defect in the contrivance; but it is not the *object* of it. This is a distinction which well deserves to be attended to. In describing implements of husbandry, you would hardly say of the sickle, that it is made to cut the reaper's fingers, though, from the construction of the instrument, and the manner of using it, this mischief often happens. But if you had occasion to describe instruments of torture or execution, this engine, you would say, is to extend the sinews; this to dislocate the joints; this to break the bones; this to scorch the soles of the feet. Here, pain and misery are the very *objects* of the contrivance. Now, nothing of this sort is to be found in the works of nature. We never discover a train of contrivance to bring about an evil purpose. No anatomist ever discovered a system of organization calculated to produce pain and disease; or, in explaining the parts of the human

body, ever said, this is to irritate; this to inflame; this duct is to convey the gravel to the kidneys; this gland to secrete the humour which forms the gout: if by chance he come at a part of which he knows not the use, the most he can say is, that it is useless: no one ever suspects that it is put there to incommode, to annoy, or to torment. Since then God hath called forth his consummate wisdom to contrive and provide for our happiness, and the world appears to have been constituted with this design at first, so long as this constitution is upholden by him, we must in reason suppose the same design to continue.

The contemplation of universal nature rather bewilders the mind than affects it. There is always a bright spot in the prospect, upon which the eye rests; a single example, perhaps, by which each man finds himself more *convinced* than by all others put together. I seem, for my own part, to see the benevolence of the Deity more clearly in the pleasures of very young children, than in any thing in the world. The pleasures of grown persons may be reckoned partly of their own procuring; especially if there has been any industry, or con-

trivance, or pursuit, to come at them; or if they are founded, like music, painting, &c. upon any qualification of their own acquiring. But the pleasures of a healthy infant are so manifestly provided for it by *another*, and the benevolence of the provision is so unquestionable, that every child I see at its sport, affords to my mind a kind of sensible evidence of the finger of God, and of the disposition which directs it.

But the example, which strikes each man most strongly, is the true example for him: and hardly two minds hit upon the same; which shows the abundance of such examples about us.

We conclude, therefore, that God wills and wishes the happiness of his creatures. And this conclusion being once established, we are at liberty to go with the rule built upon it, namely, "that the method "of coming at the will of God, concern-"ing any action, by the light of nature, "is to inquire into the tendency of that "action to promote or diminish the gene-"ral happiness."

CHAPTER VI.

UTILITY.

So then actions are to be estimated by their tendency *. Whatever is expedient, is right. It is the utility of any moral rule alone which constitutes the obligation of it.

But to all this there seems a plain objection, *viz.* that many actions are useful, which no man in his senses will allow to be right. There are occasions, in which the hand of the assassin would be very useful. The present possessor of some great estate employs his influence and fortune, to annoy, corrupt, or oppress all about him. His estate would devolve, by his death, to a successor of an opposite character. It

* Actions in the abstract are right or wrong, according to their *tendency*; the agent is virtuous or vicious, according to his *design*. Thus, if the question be, Whether relieving common beggars be right or wrong? we inquire into the *tendency* of such a conduct to the public advantage or inconvenience. If the question be, Whether a man remarkable for this sort of bounty is to be esteemed virtuous for that reason? we inquire into his *design*, whether his liberality sprang from charity or from ostentation? It is evident that our concern is with actions in the abstract.

is useful, therefore, to dispatch such a one as soon as possible out of the way; as the neighbourhood will exchange thereby a pernicious tyrant for a wise and generous benefactor. It might be useful to rob a miser, and give the money to the poor; as the money, no doubt, would produce more happiness, by being laid out in food and clothing for half a dozen distressed families, than by continuing locked up in a miser's chest. It may be useful to get possession of a place, a piece of preferment, or of a seat in parliament, by bribery or false swearing: as by means of them we may serve the public more effectually than in our private station. What then shall we say? Must we admit these actions to be right, which would be to justify assassination, plunder, and perjury; or must we give up our principle, that the criterion of right is utility?

It is not necessary to do either.

The true answer is this; that these actions, after all, are not useful, and for that reason, and that alone, are not right.

To see this point perfectly, it must be observed that the bad consequences of actions are twofold, *particular* and *general*.

The particular bad consequence of an

action, is the mischief which that single action directly and immediately occasions.

The general bad consequence is, the violation of some necessary or useful *general* rule.

Thus, the particular bad consequence of the assassination above described, is the fright and pain which the deceased underwent; the loss he suffered of life, which is as valuable to a bad man, as to a good one, or more so; the prejudice and affliction, of which his death was the occasion, to his family, friends, and dependants.

The general bad consequence is the violation of this necessary general rule, that no man be put to death for his crimes, but by public authority.

Although, therefore, such an action have no particular bad consequences, or greater particular good consequences, yet it is not useful, by reason of the general consequence, which is of more importance, and which is evil. And the same of the other two instances, and of a million more, which might be mentioned.

But as this solution supposes, that the moral government of the world must proceed by general rules, it remains that we show the necessity of this.

CHAPTER VII.

THE NECESSITY OF GENERAL RULES.

You cannot permit one action and forbid another, without showing a difference between them. Consequently, the same sort of actions must be generally permitted or generally forbidden. Where, therefore, the general permission of them would be pernicious, it becomes necessary to lay down and support the rule which generally forbids them.

Thus, to return once more to the case of the assassin. The assassin knocked the rich villain on the head, because he thought him better out of the way than in it. If you allow this excuse in the present instance, you must allow it to all who act in the same manner, and from the said motive; that is, you must allow every man to kill any one he meets, whom he thinks noxious or useless; which, in the event, would be to commit every man's life and safety to the spleen, fury, and fanaticism of

his neighbour;—a disposition of affairs which would soon fill the world with misery and confusion; and ere long put an end to human society, if not to the human species.

The necessity of general rules in human government is apparent: but whether the same necessity subsist in the Divine œconomy, in that distribution of rewards and punishments to which a moralist looks forward, may be doubted.

I answer, that general rules are necessary to every moral government: and by moral government I mean any dispensation, whose object is to influence the conduct of reasonable creatures.

For if, of two actions perfectly similar, one be punished, and the other be rewarded or forgiven, which is the consequence of rejecting general rules, the subjects of such a dispensation would no longer know, either what to expect or how to act. Rewards and punishments would cease to be such,—would become accidents. Like the stroke of a thunderbolt, or the discovery of a mine, like a blank or a benefit ticket in a lottery, they would occasion pain or pleasure when they happened: but, following in no known

order, from any particular course of action, they could have no previous influence or effect upon the conduct.

An attention to general rules, therefore, is included in the very idea of reward and punishment. Consequently, whatever reason there is to expect future reward and punishment at the hand of God, there is the same reason to believe, that he will proceed in the distribution of it by general rules.

Before we prosecute the consideration of general consequences any farther, it may be proper to anticipate a reflection, which will be apt enough to suggest itself, in the progress of our argument.

As the general consequence of an action, upon which so much of the guilt of a bad action depends, consists in the *example*; it should seem, that if the action be done with perfect secrecy, so as to furnish no bad example, that part of the guilt drops off. In the case of suicide, for instance, if a man can so manage matters, as to take away his own life, without being known or suspected to have done so, he is not charge-

able with any mischief from the example; nor does his punishment seem necessary, in order to save the authority of any general rule.

In the first place, those who reason in this manner do not observe, that they are setting up a general rule, of all others the least to be endured; namely, that secrecy, whenever secrecy is practicable, will justify any action.

Were such a rule admitted, for instance, in the case above produced; is there not reason to fear that people would be *disappearing* perpetually?

In the next place, I would wish them to be well satisfied about the points proposed in the following queries:

1. Whether the Scriptures do not teach us to expect that, at the general judgement of the world, the most secret actions will be brought to light *?

2. For what purpose can this be, but to make them the objects of reward and punishment?

* "In the day when God shall judge the secrets of "men by Jesus Christ." Rom. xi. 16.—"Judge nothing "before the time, until the Lord come, who will bring to "light the hidden things of darkness, and will make "manifest the counsels of the heart." 1 Cor. iv. 5.

3. Whether, being so brought to light, they will not fall under the operation of those equal and impartial rules, by which God will deal with his creatures?

They will then become examples, whatever they be now; and require the same treatment from the judge and governor of the moral world, as if they had been detected from the first.

CHAPTER VIII.

THE CONSIDERATION OF GENERAL CONSEQUENCES PURSUED.

The general consequence of any action may be estimated, by asking what would be the consequence, if the same sort of actions were generally permitted.—But suppose they were, and a thousand such actions perpetrated under this permission; is it just to charge a single action with the collected guilt and mischief of the whole thousand? I answer, that the reason for prohibiting and punishing an action (and this reason may be called the *guilt* of the action, if you please) will always be in proportion to the whole mischief that would

arise from the general impunity and toleration of actions of the same sort.

"Whatever is expedient, is right." But then it must be expedient on the whole, at the long run, in all its effects collateral and remote, as well as in those which are immediate and direct; as it is obvious, that, in computing consequences, it makes no difference in what way or at what distance they ensue.

To impress this doctrine on the minds of young readers, and to teach them to extend their views beyond the immediate mischief of a crime, I shall here subjoin a string of instances, in which the particular consequence is comparatively insignificant; and where the malignity of the crime, and the severity with which human laws pursue it, is almost entirely founded upon the general consequence.

The particular consequence of coining is, the loss of a guinea, or of half a guinea, to the person who receives the counterfeit money: the general consequence (by which I mean the consequence that would ensue, if the same practice were generally permitted) is, to abolish the use of money.

The particular consequence of forgery is,

a damage of twenty or thirty pounds to the man who accepts the forged bill: the general consequence is, the stoppage of paper-currency.

The particular consequence of sheep-stealing, or horse-stealing, is, a loss to the owner, to the amount of the value of the sheep or horse stolen: the general consequence is, that the land could not be occupied, nor the market supplied with this kind of stock.

The particular consequence of breaking into a house empty of inhabitants, is, the loss of a pair of silver candlesticks, or a few spoons: the general consequence is, that nobody could leave their house empty.

The particular consequence of smuggling may be a deduction from the national fund too minute for computation: the general consequence is, the destruction of one entire branch of public revenue; a proportionable increase of the burthen upon other branches; and the ruin of all fair and open trade in the article smuggled.

The particular consequence of an officer's breaking his parole is, the loss of a prisoner, who was possibly not worth keeping: the general consequence is, that this miti-

gation of captivity would be refused to all others.

And what proves incontestably the superior importance of general consequences is, that crimes are the same, and treated in the same manner, though the particular consequence be very different. The crime and fate of the house-breaker is the same, whether his booty be five pounds or fifty. And the reason is, that the general consequence is the same.

The want of this distinction between particular and general consequences, or rather, the not sufficiently attending to the latter, is the cause of that perplexity which we meet with in ancient moralists. On the one hand, they were sensible of the absurdity of pronouncing actions good or evil, without regard to the good or evil they produced. On the other hand, they were startled at the conclusions to which a steady adherence to consequences seemed sometimes to conduct them. To relieve this difficulty they contrived the τὸ πρεπον, or the *honestum*, by which terms they meant to constitute a measure of right, distinct from utility. Whilst the *utile* served them, that is, whilst it corresponded with their

habitual notions of the rectitude of actions, they went by *it*. When they fell in with such cases as those mentioned in the sixth chapter, they took leave of their guide, and resorted to the *honestum*. The only account they could give of the matter was, that these actions might be useful: but, because they were not at the same time *honesta*, they were by no means to be deemed just or right.

From the principles delivered in this and the two preceding chapters, a maxim may be explained, which is in every man's mouth, and in most men's without meaning, *viz.* "not to do evil, that good may come:" that is, let us not violate a general rule, for the sake of any particular good consequence we may expect. Which is for the most part a salutary caution, the advantage seldom compensating for the violation of the rule. Strictly speaking, that cannot be "evil," from which "good comes;" but in this way, and with a view to the distinction between particular and general consequences, it may.

We will conclude this subject of *consequences* with the following reflection. A man may imagine, that any action of his,

with respect to the public, must be inconsiderable: so also is the agent. If his crime produce but a small effect upon the *universal* interest, his punishment or destruction bears a small proportion to the sum of happiness and misery in the creation.

CHAPTER IX.

OF RIGHT.

RIGHT and obligation are reciprocal; that is, wherever there is a right in one person, there is a corresponding obligation upon others. If one man has a "right" to an estate; others are "obliged" to abstain from it:—If parents have a "right" to reverence from their children; children are "obliged" to reverence their parents:—and so in all other instances.

Now, because moral *obligation* depends, as we have seen, upon the will of God; *right*, which is correlative to it, must depend upon the same. Right therefore signifies, *consistency with the will of God.*

But if the Divine will determine the distinction of right and wrong, what else is it

but an identical proposition, to say of God, that he acts *right?* or how is it possible to conceive even that he should act *wrong?* Yet these assertions are intelligible and significant. The case is this: By virtue of the two principles, that God wills the happiness of his creatures, and that the will of God is the measure of right and wrong, we arrive at certain conclusions; which conclusions become rules; and we soon learn to pronounce actions right or wrong, according as they agree or disagree with our rules, without looking any farther: and when the habit is once established of stopping at the rules, we can go back and compare with these rules even the Divine conduct itself; and yet it may be true (only not observed by us at the time) that the rules themselves are deduced from the Divine will.

Right is a quality of persons or of actions.

Of persons; as when we say, such a one has a "right" to this estate; parents have a "right" to reverence from their children; the king to allegiance from his subjects; masters have a "right" to their servants' labour; a man has not a "right" over his own life.

Of actions; as in such expressions as the

following: it is "right" to punish murder with death; his behaviour on that occasion was "right;" it is not "right" to send an unfortunate debtor to gaol; he did or acted "right," who gave up his place, rather than vote against his judgement.

In this latter set of expressions, you may substitute the definition of right above given, for the term itself; *v. g.* it is "consistent with the will of God" to punish murder with death;—his behaviour on that occasion was "consistent with the will of God;" it is not "consistent with the will of God" to send an unfortunate debtor to gaol;—he did, or acted, "consistently with the will of God," who gave up his place rather than vote against his judgement.

In the former set, you must vary the construction a little, when you introduce the definition instead of the term. Such a one has a "right" to this estate, that is, it is "consistent with the will of God," that such a one should have it;—parents have a "right" to reverence from their children, that is, it is "consistent with the will of God" that children should reverence their parents;—and the same of the rest.

CHAPTER X.

THE DIVISION OF RIGHTS.

RIGHTS, when applied to persons, are

Natural or adventitious:

Alienable or unalienable:

Perfect or imperfect.

I. Rights are natural or adventitious.

Natural rights are such as would belong to a man, although there subsisted in the world, no civil government whatever.

Adventitious rights are such as would not.

Natural rights are, a man's right to his life, limbs, and liberty; his right to the produce of his personal labour; to the use, in common with others, of air, light, water. If a thousand different persons, from a thousand different corners of the world, were cast together upon a desert island, they would from the first be every one entitled to these rights.

Adventitious rights are, the right of a king over his subjects; of a general over his soldiers; of a judge over the life and liberty of a prisoner; a right to elect or appoint magistrates, to impose taxes, decide dis-

putes, direct the descent or disposition of property; a right, in a word, in any one man, or particular body of men, to make laws and regulations for the rest. For none of these rights would exist in the newly-inhabited island.

And here it will be asked how adventitious rights are created; or, which is the same thing, how any new rights can accrue from the establishment of civil society; as rights of all kinds, we remember, depend upon the will of God, and civil society is but the ordinance and institution of man? For the solution of this difficulty, we must return to our first principles. God wills the happiness of mankind, and the existence of civil society, as conducive to that happiness. Consequently, many things, which are useful for the support of civil society in general, or for the conduct and conservation of particular societies already established, are, for that reason, "consistent "with the will of God," or "right," which, without that reason, *i. e.* without the establishment of civil society, would not have been so.

From whence also it appears, that adventitious rights, though immediately de-

rived from human appointment, are not, for that reason, less sacred than natural rights, nor the obligation to respect them less cogent. They both ultimately rely upon the same authority, the will of God. Such a man claims a right to a particular estate. He can show, it is true, nothing for his right, but a rule of the civil community to which he belongs; and this rule may be arbitrary, capricious, and absurd. Notwithstanding all this, there would be the same sin in dispossessing the man of his estate by craft or violence, as if it had been assigned to him, like the partition of the country amongst the twelve tribes, by the immediate designation and appointment of Heaven.

II. Rights are alienable or unalienable.

Which terms explain themselves.

The right we have to most of those things which we call property, as houses, lands, money, &c. is alienable.

The right of a prince over his people, of a husband over his wife, of a master over his servant, is generally and naturally unalienable.

The distinction depends upon the mode of acquiring the right. If the right ori-

ginate from a contract, and be limited to the *person* by the express terms of the contract, or by the common interpretation of such contracts (which is equivalent to an express stipulation), or by a *personal condition* annexed to the right; then it is unalienable. In all other cases, it is alienable.

The right to civil liberty is alienable; though, in the vehemence of men's zeal for it, and in the language of some political remonstrances, it has often been pronounced to be an unalienable right. The true reason why mankind hold in detestation the memory of those who have sold their liberty to a tyrant, is, that, together with their own, they sold commonly, or endangered, the liberty of others; which certainly they had no right to dispose of.

III. Rights are perfect or imperfect.

Perfect rights may be asserted by force, or, what in civil society comes into the place of private force, by course of law.

Imperfect rights may not.

Examples of perfect rights.—A man's right to his life, person, house; for, if these be attacked, he may repel the attack by instant violence, or punish the aggressor by

law: a man's right to his estate, furniture, clothes, money, and to all ordinary articles of property; for, if they be injuriously taken from him, he may compel the author of the injury to make restitution or satisfaction.

Examples of imperfect rights.—In elections or appointments to offices, where the qualifications are prescribed, the best qualified candidate has a right to success; yet, if he be rejected, he has no remedy. He can neither seize the office by force, nor obtain redress at law; his right therefore is imperfect. A poor neighbour has a right to relief; yet if it be refused him, he must not extort it. A benefactor has a right to returns of gratitude from the person he has obliged; yet, if he meet with none, he must acquiesce. Children have a right to affection and education from their parents; and parents, on their part, to duty and reverence from their children; yet, if these rights be on either side withholden, there is no compulsion by which they can be enforced.

It may be at first view difficult to apprehend how a person should have a right to a thing, and yet have no right to use the means necessary to obtain it. This diffi-

culty, like most others in morality, is resolvable into the necessity of general rules. The reader recollects, that a person is said to have a "right" to a thing, when it is "consistent with the will of God" that he should possess it. So that the question is reduced to this; how it comes to pass that it should be consistent with the will of God that a person should possess a thing, and yet not be consistent with the same will that he should use force to obtain it? The answer is, that by reason of the indeterminateness, either of the object, or of the circumstances of the right, the permission of force in this case would, in its consequence, lead to the permission of force in other cases, where there existed no right at all. The candidate above described has, no doubt, a right to success; but his right depends upon his qualifications, for instance, upon his comparative virtue, learning, &c.; there must be somebody therefore to compare them. The existence, degree, and respective importance of these qualifications, are all indeterminate: there must be somebody therefore to determine them. To allow the candidate to demand success by force, is to make him the judge

of his own qualifications. You cannot do this but you must make all other candidates the same; which would open a door to demands without number, reason, or right. In like manner, a poor man has a right to relief from the rich: but the mode, season, and quantum of that relief, who shall contribute to it, or how much, are not ascertained. Yet these points must be ascertained, before a claim to relief can be prosecuted by force. For, to allow the poor to ascertain them for themselves, would be to expose property to so many of these claims, that it would lose its value, or rather its nature, that is, cease indeed to be property. The same observation holds of all other cases of imperfect rights; not to mention, that in the instances of gratitude, affection, reverence, and the like, force is excluded by the very idea of the duty, which must be voluntary, or cannot exist at all.

Wherever the right is imperfect, the corresponding obligation is so too. I am obliged to prefer the best candidate, to relieve the poor, be grateful to my benefactors, take care of my children, and reverence my parents; but in all these cases, my obligation, like their right, is imperfect.

I call these obligations "imperfect," in conformity to the established language of writers upon the subject. The term, however, seems ill chosen on this account, that it leads many to imagine, that there is less guilt in the violation of an imperfect obligation, than of a perfect one: which is a groundless notion. For an obligation being perfect or imperfect, determines only whether violence may or may not be employed to enforce it; and determines nothing else. The degree of guilt incurred by violating the obligation, is a different thing, and is determined by circumstances altogether independent of this distinction. A man who by a partial, prejudiced, or corrupt vote, disappoints a worthy candidate of a station in life, upon which his hopes, possibly, or livelihood depended, and who thereby grievously discourages merit and emulation in others, commits, I am persuaded, a much greater crime, than if he filched a book out of a library, or picked a pocket of a handkerchief; though in the one case he violates only an imperfect right, in the other a perfect one.

As positive precepts are often indeterminate in their extent, and as the indeter-

minateness of an obligation is that which makes it imperfect; it comes to pass, that positive precepts commonly produce an imperfect obligation.

Negative precepts or prohibitions, being generally precise, constitute accordingly perfect obligations.

The fifth commandment is positive, and the duty which results from it is imperfect.

The sixth commandment is negative, and imposes a perfect obligation.

Religion and virtue find their principal exercise among the imperfect obligations; the laws of civil society taking pretty good care of the rest.

CHAPTER XI.

THE GENERAL RIGHTS OF MANKIND.

By the general Rights of Mankind, I mean the rights which belong to the species collectively; the original stock, as I may say, which they have since distributed among themselves.

These are,

I. A right to the fruits or vegetable produce of the earth.

The insensible parts of the creation are incapable of injury; and it is nugatory to inquire into the right, where the use can be attended with no injury. But it may be worth observing, for the sake of an inference which will appear below, that, as God had created us with a want and desire of food, and provided things suited by their nature to sustain and satisfy us, we may fairly presume, that he intended we should apply these things to that purpose.

2. A right to the flesh of animals.

This is a very different claim from the former. Some excuse seems necessary for the pain and loss which we occasion to brutes, by restraining them of their liberty, mutilating their bodies, and, at last, putting an end to their lives (which we suppose to be the whole of their existence), for our pleasure or conveniency.

The reasons alleged in vindication of this practice, are the following: that the several species of brutes being created to prey upon one another, affords a kind of analogy to prove that the human species were intended to feed upon them; that, if

let alone, they would overrun the earth, and exclude mankind from the occupation of it; that they are requited for what they suffer at our hands, by our care and protection.

Upon which reasons I would observe, that *the analogy* contended for is extremely lame; since brutes have no power to support life by any other means, and since we have; for the whole human species might subsist entirely upon fruit, pulse, herbs, and roots, as many tribes of Hindoos actually do. The two other reasons may be valid reasons, as far as they go; for, no doubt, if man had been supported entirely by vegetable food, a great part of those animals which die to furnish his table, would never have lived: but they by no means justify our right over the lives of brutes to the extent in which we exercise it. What danger is there, for instance, of fish interfering with us, in the occupation of their element? or what do *we* contribute to their support or preservation?

It seems to me, that it would be difficult to defend this right by any arguments which the light and order of nature afford; and that we are beholden for it to the per-

mission recorded in Scripture, Gen. ix. 1, 2, 3: "And God blessed Noah and his sons, "and said unto them, Be fruitful, and mul- "tiply, and replenish the earth: and the "fear of you, and the dread of you, shall "be upon every beast of the earth, and "upon every fowl of the air, and upon "all that moveth upon the earth, and upon "all the fishes of the sea; into your hand "are they delivered; every moving thing "shall be meat for you; even as the green "herb, have I given you all things." To Adam and his posterity had been granted, at the creation, "every green herb for meat," and nothing more. In the last clause of the passage now produced, the old grant is recited, and extended to the flesh of animals; "even as the green herb, have I given "you all things." But this was not till after the flood; the inhabitants of the antediluvian world had therefore no such permission, that we know of. Whether they actually refrained from the flesh of animals, is another question. Abel, we read, was a keeper of sheep; and for what purpose he kept them, except for food, is difficult to say (unless it were sacrifices): might not, however, some of the stricter sects among

the antediluvians be scrupulous as to this point? and might not Noah and his family be of this description? for it is not probable that God would publish a permission, to authorise a practice which had never been disputed.

Wanton, and, what is worse, studied cruelty to brutes, is certainly wrong, as coming within none of these reasons.

From reason then, or revelation, or from both together, it appears to be God Almighty's intention, that the productions of the earth should be applied to the sustentation of human life. Consequently all waste and misapplication of these productions, is contrary to the Divine intention and will; and therefore wrong, for the same reason that any other crime is so. Such as, what is related of William the Conqueror, the converting of twenty manors into a forest for hunting, or, which is not much better, suffering them to continue in that state; or the letting of large tracts of land lie barren, because the owner cannot cultivate them, nor will part with them to those who can; or destroying, or suffering to perish, great

part of an article of human provision, in order to enhance the price of the remainder, (which is said to have been, till lately, the case with fish caught upon the English coast); or diminishing the breed of animals, by a wanton, or improvident consumption of the young, as of the spawn of shell-fish, or the fry of salmon, by the use of unlawful nets, or at improper seasons: to this head may also be referred, what is the same evil in a smaller way, the expending of human food on superfluous dogs or horses; and lastly, the reducing of the quantity, in order to alter the quality, and to alter it generally for the worse; as the distillation of spirits from bread corn, the boiling down of solid meat for sauces, essences, &c.

This seems to be the lesson which our Saviour, after his manner, inculcates, when he bids his disciples "gather up the frag-"ments, that nothing be lost." And it opens indeed a new field of duty. Schemes of wealth or profit, prompt the active part of mankind to cast about, how they may convert their property to the most advantage; and their own advantage, and that of the public, commonly concur. But it has not as yet entered into the minds of

mankind, to reflect that it is a *duty*, to add what we can to the common stock of provision, by extracting out of our estates the most they will yield; or that it is any sin to neglect this.

From the same intention of God Almighty, we also deduce another conclusion, namely, "that nothing ought to be made "exclusive property, which can be conve-"niently enjoyed in common."

It is the general intention of God Almighty, that the produce of the earth be applied to the use of man. This appears from the constitution of nature, or, if you will, from his express declaration; and this is all that appears at first. Under this general donation, one man has the same right as another. You pluck an apple from a tree, or take a lamb from a flock, for your immediate use and nourishment, and I do the same; and we both plead for what we do, the general intention of the Supreme Proprietor. So far all is right: but you cannot claim the whole tree, or the whole flock, and exclude me from any share of them, and plead this general intention for what you do. The plea will not serve you; you must show something more. You must

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show, by probable arguments at least, that it is God's intention, that these things should be parcelled out to individuals; and that the established distribution, under which you claim, should be upholden. Show me this, and I am satisfied. But until this be shown, the general intention, which has been made appear, and which is all that does appear, must prevail; and, under that, my title is as good as yours. Now there is no argument to induce such a presumption, but one, that the thing cannot be enjoyed at all, or enjoyed with the same, or with nearly the same advantage, while it continues in common, as when appropriated. This is true, where there is not enough for all, or where the article in question requires care or labour in the production or preservation: but where no such reason obtains, and the thing is in its nature capable of being enjoyed by as many as will, it seems an arbitrary usurpation upon the rights of mankind, to confine the use of it to any.

If a medicinal spring were discovered in a piece of ground which was private property, copious enough for every purpose to which it could be applied, I would award a

compensation to the owner of the field, and a liberal profit to the author of the discovery, especially if he had bestowed pains or expense upon the search: but I question whether any human laws would be justified, or would justify the owner, in prohibiting mankind from the use of the water, or setting such a price upon it, as would almost amount to a prohibition.

If there be fisheries, which are inexhaustible, as the cod-fishery upon the Banks of Newfoundland, and the herring-fishery in the British seas, are said to be; then all those conventions, by which one or two nations claim to themselves, and guaranty to each other, the exclusive enjoyment of these fisheries, are so many encroachments upon the general rights of mankind.

Upon the same principle may be determined a question, which makes a great figure in books of natural law, *utrum mare sit liberum?* that is, as I understand it, whether the exclusive right of navigating particular seas, or a control over the navigation of these seas, can be claimed, consistently with the law of nature, by any nation? What is necessary for each nation's

safety, we allow; as their own bays, creeks, and harbours, the sea contiguous to, that is, within cannon-shot, or three leagues of their coast: and upon this principle of safety (if upon any principle) must be defended, the claim of the Venetian State to the Adriatic, of Denmark to the Baltic Sea, and of Great Britain to the seas which invest the island. But, when Spain asserts a right to the Pacific Ocean, or Portugal to the Indian Seas, or when any nation extends its pretensions much beyond the limits of its own territories, they erect a claim which interferes with the benevolent designs of Providence, and which no human authority can justify.

III. Another right, which may be called a general right, as it is incidental to every man who is in a situation to claim it, is the right of extreme necessity; by which is meant, a right to use or destroy another's property, when it is necessary for our own preservation to do so; as a right to take, without or against the owner's leave, the first food, clothes, or shelter we meet with, when we are in danger of perishing through want of them; a right to throw goods overboard, to save the ship; or to pull down a

house, in order to stop the progress of a fire; and a few other instances of the same kind. Of which right the foundation seems to be this, that when property was first instituted, the institution was not intended to operate to the destruction of any: therefore, when such consequences would follow, all regard to it is superseded. Or rather, perhaps, these are the few cases, where the particular consequence exceeds the general consequence; where the remote mischief resulting from the violation of the general rule, is over-balanced by the immediate advantage.

Restitution however is due, when in our power; because the laws of property are to be adhered to, so far as consists with safety; and because restitution, which is one of those laws, supposes the danger to be over. But what is to be restored? Not the full value of the property destroyed, but what it was worth at the time of destroying it, which, considering the danger it was in of perishing, might be very little.

MORAL PHILOSOPHY.

BOOK III.

RELATIVE DUTIES.

PART I.

OF RELATIVE DUTIES WHICH ARE DETERMINATE.

CHAPTER I.

OF PROPERTY.

If you should see a flock of pigeons in a field of corn: and if (instead of each picking where, and what it liked, taking just as much as it wanted, and no more) you should see ninety-nine of them gathering all they got, into a heap; reserving nothing for themselves, but the chaff and the refuse; keeping this heap for one, and that the weakest, perhaps worst pigeon of the flock; sitting round, and looking on, all the winter, whilst this one was devouring, throwing about, and wasting it; and if a pigeon more hardy

or hungry than the rest, touched a grain of the hoard, all the others instantly flying upon it, and tearing it to pieces; if you should see this, you would see nothing more than what is every day practised and established among men. Among men, you see the ninety-and-nine, toiling and scraping together a heap of superfluities for one (and this one too, oftentimes the feeblest and worst of the whole set, a child, a woman, a madman, or a fool); getting nothing for themselves all the while, but a little of the coarsest of the provision, which their own industry produces; looking quietly on, while they see the fruits of all their labour spent or spoiled; and if one of the number take or touch a particle of the hoard, the others joining against him, and hanging him for the theft.

CHAPTER II.

THE USE OF THE INSTITUTION OF PROPERTY.

THERE must be some very important advantages to account for an institution, which, in the view of it above given, is so paradoxical and unnatural.

The principal of these advantages are the following:

I. It increases the produce of the earth.

The earth, in climates like ours, produces little without cultivation; and none would be found willing to cultivate the ground, if others were to be admitted to an equal share of the produce. The same is true of the care of flocks and herds of tame animals.

Crabs and acorns, red deer, rabbits, game, and fish, are all which we should have to subsist upon in this country, if we trusted to the spontaneous productions of the soil; and it fares not much better with other countries. A nation of North-American savages, consisting of two or three hundred, will take up, and be half-starved

upon, a tract of land, which in Europe, and with European management, would be sufficient for the maintenance of as many thousands.

In some fertile soils, together with great abundance of fish upon their coasts, and in regions where clothes are unnecessary, a considerable degree of population may subsist without property in land; which is the case in the islands of Otaheite: but in less favoured situations, as in the country of New Zealand, though this sort of property obtain in a small degree, the inhabitants, for want of a more secure and regular establishment of it, are driven oftentimes by the scarcity of provision to devour one another.

II. It preserves the produce of the earth to maturity.

We may judge what would be the effects of a community of right to the productions of the earth, from the trifling specimens which we see of it at present. A cherry-tree in a hedge-row, nuts in a wood, the grass of an unstinted pasture, are seldom of much advantage to any body, because people do not wait for the proper season of reaping them. Corn, if any were sown, would never ripen; lambs and calves

would never grow up to sheep and cows, because the first person that met them would reflect, that he had better take them as they are, than leave them for another.

III. It prevents contests.

War and waste, tumult and confusion, must be unavoidable and eternal, where there is not enough for all, and where there are no rules to adjust the division.

IV. It improves the conveniency of living.

This it does two ways. It enables mankind to divide themselves into distinct professions; which is impossible, unless a man can exchange the productions of his own art for what he wants from others; and exchange implies property. Much of the advantage of civilized over savage life, depends upon this. When a man is from necessity his own tailor, tent-maker, carpenter, cook, huntsman, and fisherman, it is not probable that he will be expert at any of his callings. Hence the rude habitations, furniture, clothing, and implements of savages; and the tedious length of time which all their operations require.

It likewise encourages those arts, by which the accommodations of human life

are supplied, by appropriating to the artist the benefit of his discoveries and improvements; without which appropriation, ingenuity will never be exerted with effect.

Upon these several accounts we may venture, with a few exceptions, to pronounce, that even the poorest and the worst provided, in countries where property and the consequences of property prevail, are in a better situation, with respect to food, raiment, houses, and what are called the necessaries of life, than *any* are in places where most things remain in common.

The balance, therefore, upon the whole, must preponderate in favour of property with a manifest and great excess.

Inequality of property, in the degree in which it exists in most countries of Europe, abstractedly considered, is an evil: but it is an evil which flows from those rules concerning the acquisition and disposal of property, by which men are incited to industry, and by which the object of their industry is rendered secure and valuable. If there be any great inequality unconnected with this origin, it ought to be corrected.

CHAPTER III.

THE HISTORY OF PROPERTY.

The first objects of property were the fruits which a man gathered, and the wild animals he caught; next to these, the tents or houses which he built, the tools he made use of to catch or prepare his food; and afterwards weapons of war and offence. Many of the savage tribes in North America have advanced no further than this yet; for they are said to reap their harvest and return the produce of their market with foreigners, into the common hoard or treasury of the tribe. Flocks and herds of tame animals soon became property; Abel, the second from Adam, was a keeper of sheep; sheep and oxen, camels and asses, composed the wealth of the Jewish patriarchs, as they do still of the modern Arabs. As the world was first peopled in the East, where there existed a great scarcity of water, wells probably were next made property; as we learn from the frequent and serious mention of them in the Old Testament; the contentions and treaties about

them*; and from its being recorded, among the most memorable achievements of very eminent men, that they dug or discovered a well. Land, which is now so important a part of property, which alone our laws call real property, and regard upon all occasions with such peculiar attention, was probably not made property in any country, till long after the institution of many other species of property, that is, till the country became populous, and tillage began to be thought of. The first partition of an estate which we read of, was that which took place between Abram and Lot, and was one of the simplest imaginable: "If thou wilt take the left hand, then I "will go to the right; or if thou depart to "the right hand, then I will go to the left." There are no traces of property in land, in Cæsar's account of Britain; little of it in the history of the Jewish patriarchs; none of it found amongst the nations of North America; the Scythians are expressly said to have appropriated their cattle and houses, but to have left their land in common.

Property in moveables continued at first no longer than the occupation: that is, so

* Genesis xxi. 25; xxvi. 18.

long as a man's family continued in possession of a cave, or whilst his flocks depastured upon a neighbouring hill, no one attempted, or thought he had a right, to disturb or drive them out: but when the man quitted his cave, or changed his pasture, the first who found them unoccupied, entered upon them, by the same title as his predecessor's; and made way in his turn for any one that happened to succeed him. All more permanent property in land was probably posterior to civil government and to laws; and therefore settled by these, or according to the will of the reigning chief.

CHAPTER IV.

IN WHAT THE RIGHT OF PROPERTY IS FOUNDED.

We now speak of Property in Land: and there is a difficulty in explaining the origin of this property, consistently with the law of nature; for the land was once, no doubt, common, and the question is, how any particular part of it could justly be taken out of the common, and so appropriated to the first owner, as to give him a better right to

it than others; and, what is more, a right to exclude all others from it.

Moralists have given many different accounts of this matter; which diversity alone, perhaps, is a proof that none of them are satisfactory.

One tells us that mankind, when they suffered a particular person to occupy a piece of ground, by tacit consent relinquished their right to it; and as the piece of ground, they say, belonged to mankind, collectively, and mankind thus gave up their right to the first peaceable occupier, it thenceforward became his property, and no one afterwards had a right to molest him in it.

The objection to this account is, that consent can never be presumed from silence, where the person whose consent is required, knows nothing about the matter; which must have been the case with all mankind, except the neighbourhood of the place where the appropriation was made. And to suppose that the piece of ground previously belonged to the neighbourhood, and that they had a just power of conferring a right to it upon whom they pleased, is to suppose the question resolved, and a

partition of land to have already taken place.

Another says, that each man's limbs and labour are his own exclusively; that, by occupying a piece of ground, a man inseparably mixes his labour with it; by which means the piece of ground becomes thenceforward his own, as you cannot take it from him, without depriving him at the same time of something which is indisputably *his*.

This is Mr. Locke's solution; and seems indeed a fair reason, where the value of the labour bears a considerable proportion to the value of the thing; or where the thing derives its chief use and value from the labour. Thus game and fish, though they be common, whilst at large in the woods or water, instantly become the property of the person that catches them; because an animal, when caught, is much more valuable than when at liberty; and this increase of value, which is inseparable from, and makes a great part of, the whole value, is strictly the property of the fowler, or fisherman, being the produce of his personal labour. For the same reason, wood or iron, manufactured into utensils, be-

comes the property of the manufacturer; because the value of the workmanship far exceeds that of the materials. And upon a similar principle, a parcel of unappropriated ground, which a man should pare, burn, plough, harrow, and sow, for the production of corn, would justly enough be thereby made his own. But this will hardly hold, in the manner it has been applied, of taking a ceremonious possession of a tract of land, as navigators do of new-discovered islands, by erecting a standard, engraving an inscription, or publishing a proclamation to the birds and beasts; or of turning your cattle into a piece of ground, setting up a landmark, digging a ditch, or planting a hedge round it. Nor will even the clearing, manuring, and ploughing of a field, give the first occupier a right to it in perpetuity, and after this cultivation and all effects of it are ceased.

Another, and in my opinion a better, account of the first right of ownership, is the following: that, as God has provided these things for the use of all, he has of consequence given each leave to take of them what he wants: by virtue therefore of this leave, a man may appropriate what he

stands in need of to his own use, without asking, or waiting for, the consent of others; in like manner as, when an entertainment is provided for the freeholders of a county, each freeholder goes, and eats and drinks what he wants or chooses, without having or waiting for the consent of the other guests.

But then this reason justifies property, as far as necessaries alone, or, at the most, as far as a competent provision for our natural exigencies. For, in the entertainment we speak of (allowing the comparison to hold in all points), although every particular freeholder may sit down and eat till he be satisfied, without any other leave than that of the master of the feast, or any other proof of that leave, than the general invitation, or the manifest design with which the entertainment is provided; yet you would hardly permit any one to fill his pockets or his wallet, or to carry away with him a quantity of provision to be hoarded up, or wasted, or given to his dogs, or stewed down into sauces, or converted into articles of superfluous luxury; especially if, by so doing, he pinched the guests at the lower end of the table.

These are the accounts that have been given of the matter by the best writers upon the subject; but, were these accounts perfectly unexceptionable, they would none of them, I fear, avail us in vindicating our present claims of property in land, unless it were more probable than it is, that our estates were actually acquired at first, in some of the ways which these accounts suppose; and that a regular regard had been paid to justice, in every successive transmission of them since; for, if one link in the chain fail, every title posterior to it falls to the ground.

The real foundation of our right is THE LAW OF THE LAND.

It is the intention of God, that the produce of the earth be applied to the use of man: this intention cannot be fulfilled without establishing property; which is consistent therefore with his will, that property be established. The land cannot be divided into separate property, without leaving it to the law of the country to regulate that division: it is consistent therefore with the same will, that the law should regulate the division; and, consequently, "consistent with the will of God," or "right,"

that I should possess that share which these regulations assign me.

By whatever circuitous train of reasoning you attempt to derive this right, it must terminate at last in the will of God; the straightest, therefore, and shortest way of arriving at this will, is the best.

Hence it appears, that my right to an estate does not at all depend upon the manner or justice of the original acquisition; nor upon the justice of each subsequent change of possession. It is not, for instance, the less, nor ought it to be impeached, because the estate was taken possession of at first by a family of aboriginal Britons, who happened to be stronger than their neighbours; nor because the British possessor was turned out by a Roman, or the Roman by a Saxon invader; nor because it was seized, without colour of right or reason, by a follower of the Norman adventurer; from whom, after many interruptions of fraud and violence, it has at length devolved to me.

Nor does the owner's right depend upon the *expediency* of the law which gives it to him. On one side of a brook, an estate descends to the eldest son; on the other side, to all the children alike. The right of the

claimants under both laws of inheritance is equal; though the expediency of such opposite rules must necessarily be different.

The principles we have laid down upon this subject, apparently tend to a conclusion of which a bad use is apt to be made. As the right of property depends upon the law of the land, it seems to follow, that a man has a right to keep and take every thing which the law will allow him to keep and take; which in many cases will authorize the most flagitious chicanery. If a creditor upon a simple contract neglect to demand his debt for six years, the debtor may refuse to pay it: would it be *right* therefore to do so, where he is conscious of the justice of the debt? If a person, who is under twenty-one years of age, contract a bargain (other than for necessaries), he may avoid it by pleading his minority: but would this be a fair plea, where the bargain was originally just?—The distinction to be taken in such cases is this: With the law, we acknowledge, resides the disposal of property: so long, therefore, as we keep within the design and intention of a law, that law will justify us, as well *in foro conscientiæ*, as *in foro humano*, whatever be the equity or expediency of the

law itself. But when we convert to one purpose, a rule or expression of law, which is intended for another purpose, then we plead in our justification, not the intention of the law, but the words: that is, we plead a dead letter, which can signify nothing; for words *without* meaning or intention, have no force or effect in justice; much less, words taken *contrary* to the meaning and intention of the speaker or writer. To apply this distinction to the examples just now proposed:—in order to protect men against antiquated demands, from which it is not probable they should have preserved the evidence of their discharge, the law prescribes a limited time to certain species of private securities, beyond which it will not enforce them, or lend its assistance to the recovery of the debt. If a man be ignorant or dubious of the justice of the demand made upon him, he may conscientiously plead this limitation: because *he applies the rule of law to the purpose for which it was intended.* But when he refuses to pay a debt of the reality of which he is conscious, he cannot, as before, plead the intention of the statute, and the supreme authority of law, unless he could show, that

the law *intended* to interpose its supreme authority, to acquit men of debts, of the existence and justice of which they were themselves sensible. Again, to preserve youth from the practices and impositions, to which their inexperience exposes them, the law compels the payment of no debts incurred within a certain age, nor the performance of any engagements, except for such necessaries as are suited to their condition and fortunes. If a young person therefore perceive that he has been practised or imposed upon, he may honestly avail himself of the privilege of his nonage, to defeat the circumvention. But, if he shelter himself under this privilege, to avoid a fair obligation, or an equitable contract, he extends the privilege to a case, in which it is not allowed by intention of law, and in which consequently it does not, in natural justice, exist.

As property is the principal subject of justice, or of "the determinate relative duties," we have put down what we had to say upon *it* in the first place; we now proceed to state these duties in the best order we can.

CHAPTER V.

PROMISES.

I. *From whence the obligation to perform promises arises.*

II. *In what sense promises are to be interpreted.*

III. *In what cases promises are not binding.*

I. From whence the obligation to perform promises arises.

They who argue from innate moral principles, suppose a sense of the obligation of promises to be one of them; but without assuming this, or any thing else, without proof, the obligation to perform promises may be deduced from the necessity of such a conduct, to the well-being, or the existence, indeed, of human society.

Men act from expectation. Expectation is in most cases determined by the assurances and engagements which we receive from others. If no dependence could be placed upon these assurances, it would be impossible to know what judgement to form of many future events, or how to regulate our conduct with respect to them. Confi-

dence therefore in promises, is essential to the intercourse of human life; because, without it, the greatest part of our conduct would proceed upon chance. But there could be no confidence in promises, if men were not obliged to perform them; the obligation therefore to perform promises, is essential, to the same ends, and in the same degree.

Some may imagine, that if this obligation were suspended, a general caution and mutual distrust would ensue, which might do as well: but this is imagined, without considering, how, every hour of our lives, we trust to, and depend upon, others; and how impossible it is, to stir a step, or, what is worse, to sit still a moment, without such trust and dependence. I am now writing at my ease, not doubting (or rather never distrusting, and therefore never thinking about it) but that the butcher will send in the joint of meat which I ordered; that his servant will bring it; that my cook will dress it; that my footman will serve it up; and that I shall find it upon table at one o'clock. Yet have I nothing for all this, but the promise of the butcher, and the implied promise of his servant and mine.

And the same holds of the most important as well as the most familiar occurrences of social life. In the one, the intervention of promises is formal, and is seen and acknowledged; our instance, therefore, is intended to show it in the other where it is not so distinctly observed.

II. *In what sense promises are to be interpreted.*

Where the terms of promise admit of more senses than one, the promise is to be performed "in that sense in which the promiser apprehended, at the time, that the promisee received it."

It is not the sense in which the promiser actually intended it, that always governs the interpretation of an equivocal promise; because, at that rate, you might excite expectations, which you never meant, nor would be obliged, to satisfy. Much less is it the sense, in which the promisee actually received the promise; for, according to that rule, you might be drawn into engagements which you never designed to undertake. It must therefore be the sense (for there is no other remaining) in which the promiser believed that the promisee accepted his promise.

This will not differ from the actual intention of the promiser, where the promise is given without collusion or reserve: but we put the rule in the above form, to exclude evasion in cases in which the popular meaning of a phrase, and the strict grammatical signification of the words, differ; or, in general, wherever the promiser attempts to make his escape through some ambiguity in the expressions which he used.

Temures promised the garrison of Sebastia, that, if they would surrender, *no blood should be shed*. The garrison surrendered; and Temures buried them all alive. Now Temures fulfilled the promise in one sense, and in the sense too in which he intended it at the time; but not in the sense in which the garrison of Sebastia actually received it, nor in the sense in which Temures himself knew that the garrison received it: which last sense, according to our rule, was the sense in which he was in conscience bound to have performed it.

From the account we have given of the obligation of promises, it is evident, that this obligation depends upon the *expectations* which we knowingly and voluntarily excite. Consequently, any action or con-

duct towards another, which we are sensible excites expectations in that other, is as much a promise, and creates as strict an obligation, as the most express assurances. Taking, for instance, a kinsman's child, and educating him for a liberal profession, or in a manner suitable only for the heir of a large fortune, as much obliges us to place him in that profession, or to leave him such a fortune, as if we had given him a promise to do so under our hands and seals. In like manner, a great man, who encourages an indigent retainer; or a minister of state, who distinguishes and caresses at his levee one who is in a situation to be obliged by his patronage; engages, by such behaviour, to provide for him.—This is the foundation of *tacit promises*.

You may either simply declare your present intention, or you may accompany your declaration with an engagement to abide by it, which constitutes a complete promise. In the first case, the duty is satisfied, if you were *sincere* at the time, that is, if you entertained at the time the intention you expressed, however soon, or for whatever reason, you afterwards change it. In the latter case, you have parted with the liberty of

changing. All this is plain: but it must be observed, that most of those forms of speech, which, strictly taken, amount to no more than declarations of present intention, do yet, in the usual way of understanding them, excite the expectation, and therefore carry with them the force of absolute promises. Such as, "I intend you this place." —"I design to leave you this estate."—"I purpose giving you my vote."—"I mean to serve you."—In which, although the "intention," the "design," the "purpose," the "meaning," be expressed in words of the present time, yet you cannot afterwards recede from them, without a breach of good faith. If you choose therefore to make known your present intention, and yet to reserve to yourself the liberty of changing it, you must guard your expressions by an additional clause, as "I intend *at present*," —"*if I do not alter*,"—or the like. And after all, as there can be no reason for communicating your intention, but to excite some degree of expectation or other, a wanton change of an intention which is once disclosed, always disappoints somebody; and is always, for that reason, wrong.

There is, in some men, an infirmity with

regard to promises, which often betrays them into great distress. From the confusion, or hesitation, or obscurity, with which they express themselves, especially when overawed, or taken by surprise, they sometimes encourage expectations, and bring upon themselves demands, which, possibly, they never dreamed of. This is a want, not so much of integrity, as of presence of mind.

III. *In what cases promises are not binding.*

1. Promises are not binding, where the performance is *impossible*.

But observe, that the promiser is guilty of a fraud, if he be secretly aware of the impossibility, at the time of making the promise. For, when any one promises a thing, he asserts his belief, at least, of the possibility of performing it; as no one can accept or understand a promise under any other supposition. Instances of this sort are the following: The minister promises a place, which he knows to be engaged, or not at his disposal:—A father, in settling marriage-articles, promises to leave his daughter an estate, which he knows to be entailed upon the heir male of his family:—A merchant promises a ship, or share of

a ship, which he is privately advised is lost at sea:—An incumbent promises to resign a living, being previously assured that his resignation will not be accepted by the bishop. The promiser, as in these cases, with knowledge of the impossibility, is justly answerable in an equivalent; but otherwise not.

When the promiser himself occasions the impossibility, it is neither more nor less than a direct breach of the promise; as when a soldier maims, or a servant disables himself, to get rid of his engagements.

2. Promises are not binding, where the performance is *unlawful*.

There are two cases of this; one, where the unlawfulness is known to the parties, at the time of making the promise; as where an assassin promises his employer to dispatch his rival or his enemy; a servant to betray his master; a pimp to procure a mistress; or a *friend* to give his assistance in a scheme of seduction. The parties in these cases are not obliged to perform what the promise requires, *because they were under a prior obligation to the contrary*. From which prior obligation what is there to discharge them? Their promise,—their own

act and deed.—But an obligation, from which a man can discharge himself by his own act, is no obligation at all. The guilt therefore of such promises lies in the making, not in the breaking of them; and if, in the interval betwixt the promise and the performance, a man so far recover his reflection, as to repent of his engagements, he ought certainly to break through them.

The other case is, where the unlawfulness did not exist, or was not known, at the time of making the promise; as where a merchant promises his correspondent abroad, to send him a ship-load of corn at a time appointed, and before the time arrive, an embargo is laid upon the exportation of corn:—A woman gives a promise of marriage; before the marriage, she discovers that her intended husband is too nearly related to her, or that he has a wife yet living. In all such cases, where the contrary does not appear, it must be presumed that the parties supposed what they promised to be lawful, and that the promise proceeded entirely upon this supposition. The lawfulness therefore becomes a condition of the promise; which condition failing, the obligation ceases. Of the same nature, was

Herod's promise to his daughter-in-law, "that he would give her whatever she "asked, even to the half of his kingdom." The promise was not unlawful in the terms in which Herod delivered it; and when it became so by the daughter's choice, by her demanding "John the Baptist's head," Herod was discharged from the obligation of it, for the reason now laid down, as well as for that given in the last paragraph.

This rule, "that promises are void, where "the performance is unlawful," extends also to imperfect obligations; for, the reason of the rule holds of all obligations. Thus, if you promise a man a place, or your vote, and he afterwards render himself unfit to receive either, you are absolved from the obligation of your promise; or, if a better candidate appear, and it be a case in which you are bound by oath, or otherwise to govern yourself by the qualification, the promise must be broken through.

And here I would recommend, to young persons especially, a caution, from the neglect of which many involve themselves in embarrassment and disgrace; and that is, "never to give a promise, which may inter-"fere in the event with their duty;" for, if

it do so interfere, their duty must be discharged, though at the expense of their promise, and not unusually of their good name.

The specific performance of promises is reckoned a perfect obligation. And many casuists have laid down in opposition to what has been here asserted, that, where a perfect and an imperfect obligation clash, the perfect obligation is to be preferred. For which opinion, however, there seems to be no reason, but what arises from the terms "perfect" and "imperfect," the impropriety of which has been remarked above. The truth is, of two contradictory obligations, that ought to prevail which is prior in point of time.

It is the *performance* being unlawful, and not any unlawfulness in the subject or motive of the promise, which destroys its validity: therefore a bribe, after the vote is given; the wages of prostitution; the reward of any crime, after the crime is committed; ought, if promised, to be paid. For the sin and mischief, by this supposition, are over; and will be neither more nor less for the performance of the promise.

In like manner, a promise does not lose its obligation merely because it proceeded

from an *unlawful motive*. A certain person, in the life-time of his wife, who was then sick, had paid his addresses, and promised marriage to another woman;—the wife died; and the woman demanded performance of the promise. The man, who, it seems, had changed his mind, either felt or pretended doubts concerning the obligation of such a promise, and referred his case to Bishop Sanderson, the most eminent, in this kind of knowledge, of his time. Bishop Sanderson, after writing a dissertation upon the question, adjudged the promise to be void. In which, however, upon our principles, he was wrong: for, however criminal the affection might be, which induced the promise, the performance, when it was demanded, was lawful; which is the only lawfulness required.

A promise cannot be deemed unlawful, where it produces, when performed, no effect, beyond what would have taken place had the promise never been made. And this is the single case, in which the obligation of a promise will justify a conduct, which, unless it had been promised, would be unjust. A captive may lawfully recover his liberty, by a promise of neutra-

lity; for his conqueror takes nothing by the promise, which he might not have secured by his death or confinement: and neutrality would be innocent in him, although criminal in another. It is manifest, however, that promises which come into the place of coercion, can extend no further than to passive compliances; for coercion itself could compel no more. Upon the same principle, promises of secrecy ought not to be violated, although the public would derive advantage from the discovery. Such promises contain no unlawfulness in them, to destroy their obligation: for, as the information would not have been imparted upon any other condition, the public lose nothing by the promise, which they would have gained without it.

3. Promises are not binding, where they *contradict a former promise*.

Because the performance is then unlawful; which resolves this case into the last.

4. Promises are not binding *before acceptance*; that is, before notice given to the promisee: for, where the promise is beneficial, if notice be given, acceptance may be presumed. Until the promise be communicated to the promisee, it is the same

only as a resolution in the mind of the promiser, which may be altered at pleasure. For no expectation has been excited, therefore none can be disappointed.

But suppose I declare my intention to a third person, who, without any authority from me, conveys my declaration to the promisee; is that such a notice as will be binding upon me? It certainly is not: for I have not done that which constitutes the essence of a promise;—I have not *voluntarily* excited expectation.

5. Promises are not binding which are *released by the promisee.*

This is evident: but it may be sometimes doubted who the promisee is. If I give a promise *to* A, of a place or vote for B; as to a father for his son; to an uncle for his nephew; to a friend of mine, for a relation or friend of his; then A is the promisee, whose consent I must obtain, to be released from the engagement.

If I promise a place or vote to B *by* A, that is, if A be a messenger to convey the promise, as if I should say, "You may "tell B that he shall have this place, or may "depend upon my vote;" or if A be employed to introduce B's request, and I

answer in any terms which amount to a compliance with it, then B is the promisee.

Promises to one person, for the benefit of another, are not released by the death of the promisee: for, his death neither makes the performance impracticable, nor implies any consent to release the promiser from it.

6. *Erroneous* promises are not binding in certain cases; as,

1. Where the error proceeds from the mistake or misrepresentation of the promisee.

Because a promise evidently supposes the truth of the account, which the promisee relates in order to obtain it. A beggar solicits your charity by a story of the most pitiable distress; you promise to relieve him, if he will call again:—In the interval you discover his story to be made up of lies;—this discovery, no doubt, releases you from your promise. One who wants your service, describes the business or office for which he would engage you;—you promise to undertake it;—when you come to enter upon it, you find the profits less, the labour more, or some material circumstance different from the account he gave you:—In such case, you are not bound by your promise.

2. When the promise is understood by the promisee to proceed upon a certain supposition, or when the promiser apprehended it to be so understood, and that supposition turns out to be false; then the promise is not binding.

This intricate rule will be best explained by an example. A father receives an account from abroad, of the death of his only son;—soon after which, he promises his fortune to his nephew.—The account turns out to be false.—The father, we say, is released from his promise; not merely because he never would have made it, had he known the truth of the case,—for that alone will not do;—but because the nephew also himself understood the promise to proceed upon the supposition of his cousin's death; or, at least, his uncle thought he so understood it; and could not think otherwise. The promise proceeded upon this supposition in the promiser's own apprehension, and, as he believed, in the apprehension of both parties: and this belief of his, is the precise circumstance which sets him free. The foundation of the rule is plainly this; a man is bound only to satisfy the expectation which he intended to excite; whatever

condition therefore he intended to subject that expectation to, becomes an essential condition of the promise.

Errors, which come not within this description, do not annul the obligation of a promise. I promise a candidate my vote;—presently another candidate appears, for whom I certainly would have reserved it, had I been acquainted with his design. Here therefore, as before, my promise proceeded from an error; and I never should have given such a promise, had I been aware of the truth of the case, as it has turned out. —But the *promisee* did not know this;—*he* did not receive the promise, subject to any such condition, or as proceeding from any such supposition;—nor did I at the time imagine he so received it. This error, therefore, of mine, must fall upon my own head, and the promise be observed notwithstanding. A father promises a certain fortune with his daughter, supposing himself to be worth so much—his circumstances turn out, upon examination, worse than he was aware of. Here again the promise was erroneous, but, for the reason assigned in the last case, will nevertheless be obligatory.

The case of erroneous promises is attended with some difficulty: for, to allow every mistake, or change of circumstances, to dissolve the obligation of a promise, would be to allow a latitude, which might evacuate the force of almost all promises: and, on the other hand, to gird the obligation so tight, as to make no allowances for manifest and fundamental errors, would, in many instances, be productive of great hardship and absurdity.

It has long been controverted amongst moralists, whether promises be binding, which are extorted by violence or fear. The obligation of all promises results, we have seen, from the necessity or the use of that confidence which mankind repose in them. The question, therefore, whether these promises are binding, will depend upon this, whether mankind, upon the whole, are benefited by the confidence placed on such promises? A highwayman attacks you—and being disappointed of his booty, threatens or prepares to murder you:—you promise, with many solemn asseverations, that if he will spare your life, he shall

find a purse of money left for him, at a place appointed;—upon the faith of this promise, he forbears from farther violence. Now, your life was saved by the confidence reposed in a promise extorted by fear; and the lives of many others may be saved by the same. This is a good consequence. On the other hand, confidence in promises like these, greatly facilitates the perpetration of robberies: they may be made the instruments of almost unlimited extortion. This is a bad consequence: and in the question between the importance of these opposite consequences, resides the doubt concerning the obligations of such promises.

There are other cases which are plainer; as where a magistrate confines a disturber of the public peace in gaol, till he promise to behave better; or a prisoner of war promises, if set at liberty, to return within a certain time. These promises, say moralists, are binding, because the violence or duress is just: but, the truth is, because there is the same use of confidence in these promises, as of confidence in the promises of a person at perfect liberty.

Vows are promises to God. The obligation cannot be made out upon the same principle as that of other promises. The violation of them, nevertheless, implies a want of reverence to the Supreme Being; which is enough to make it sinful.

There appears no command or encouragement in the Christian Scriptures to make vows; much less any authority to break through them when they are made. The few instances* of vows which we read of in the New Testament, were religiously observed.

The rules we have laid down concerning promises, are applicable to vows. Thus Jephtha's vow, taken in the sense in which that transaction is commonly understood, was not binding; because the performance, in that contingency, became unlawful.

CHAPTER VI.

CONTRACTS.

A CONTRACT is a mutual promise. The obligation therefore of contracts; the sense in which they are to be interpreted; and

* Acts, xviii. 18.; xxi. 23.

the cases where they are not binding; will be the same as of promises.

From the principle established in the last chapter, "that the obligation of promises "is to be measured by the expectation "which the promiser any how voluntarily "and knowingly excites," results a rule, which governs the construction of all contracts, and is capable, from its simplicity, of being applied with great ease and certainty, *viz.* That,

Whatever is expected by one side, and known to be so expected by the other, is to be deemed a part or condition of the contract.

The several kinds of contracts, and the order in which we propose to consider them, may be exhibited at one view, thus:

Contracts of
- Sale
- Hazard.
- Lending of
  - Inconsumable Property.
  - Money.
- Labour.
  - Service.
  - Commissions.
  - Partnership.
  - Offices.

CHAPTER VII.

CONTRACTS OF SALE.

The rule of justice, which wants with most anxiety to be inculcated in the making of bargains, is, that the seller is bound in conscience to disclose the faults of what he offers to sale. Amongst other methods of proving this, one may be the following:

I suppose it will be allowed, that to advance a direct falsehood, in recommendation of our wares, by ascribing to them some quality which we know that they have not, is dishonest. Now compare with this the designed concealment of some fault, which we know that they have. The motives and the effects of actions are the only points of comparison, in which their moral quality can differ: but the motive in these two cases is the same, *viz.* to procure a higher price than we expect otherwise to obtain: the effect, that is, the prejudice to the buyer, is also the same; for he finds himself equally out of pocket by his bargain, whether the commodity, when he gets home

with it, turn out worse than he had supposed, by the want of some quality which he expected, or the discovery of some fault which he did not expect. If therefore actions be the same, as to all moral purposes, which proceed from the same motives, and produce the same effects; it is making a distinction without a difference, to esteem it a *cheat* to magnify beyond the truth the virtues of what we have to sell, but none to conceal its faults.

It adds to the value of this kind of honesty, that the faults of many things are of a nature not to be known by any, but by the persons who have used them; so that the buyer has no security from imposition, but in the ingenuousness and integrity of the seller.

There is one exception however to this rule, namely, where the silence of the seller implies some fault in the thing to be sold, and where the buyer has a compensation in the price for the risk which he runs: as where a horse, in a London repository, is sold by public auction, without warrantry; the want of warrantry is notice of some unsoundness, and produces a proportionable abatement in the price.

To this of concealing the faults of what we want to put off, may be referred the practice of passing bad money. This practice we sometimes hear defended by a vulgar excuse, that we have taken the money for good, and must therefore get rid of it. Which excuse is much the same as if one, who had been robbed upon the highway, should allege that he had a right to reimburse himself out of the pocket of the first traveller he met; the justice of which reasoning, the traveller possibly may not comprehend.

Where there exists no monopoly or combination, the market-price is always a fair price; because it will always be proportionable to the use and scarcity of the article. Hence, there need be no scruple about demanding or taking the market-price; and all those expressions, "provi- "sions are extravagantly dear," "corn "bears an unreasonable price," and the like, import no unfairness or unreasonableness in the seller.

If your tailor or your draper charge, or even ask of you, more for a suit of clothes, than the market-price, you complain that you are imposed upon; you pronounce the

tradesman who makes such a charge, dishonest: although, as the man's goods were his own, and he had a right to prescribe the terms upon which he would consent to part with them, it may be questioned what dishonesty there can be in the case, or wherein the imposition consists. Whoever opens a shop, or in any manner exposes goods to public sale, virtually engages to deal with his customers at a market-price; because it is upon the faith and opinion of such an engagement, that any one comes within his shop-doors, or offers to treat with him. This is expected by the buyer; is known to be so expected by the seller; which is enough, according to the rule delivered above, to make it a part of the contract between them, though not a syllable be said about it. The breach of this implied contract constitutes the fraud inquired after.

Hence, if you disclaim any such engagement, you may set what value you please upon your property. If, upon being asked to sell a house, you answer that the house suits your fancy or conveniency, and that you will not turn yourself out of it, under such a price; the price fixed may

be double of what the house cost, or would fetch at a public sale, without any imputation of injustice or extortion upon you.

If the thing sold, be damaged, or perish, between the sale and the delivery, ought the buyer to bear the loss, or the seller? This will depend upon the particular construction of the contract. If the seller, either expressly, or by implication, or by custom, engage to *deliver* the goods; as if I buy a set of china, and the china-man ask me to what place he shall bring or send them, and they be broken in the conveyance, the seller must abide by the loss. If the thing sold, remain with the seller, at the instance or for the conveniency of the buyer, then the buyer undertakes the risk; as if I buy a horse, and mention, that I will send for it on such a day (which is in effect desiring that it may continue with the seller till I do send for it), then, whatever misfortune befalls the horse in the mean time, must be at my cost.

And here, once for all, I would observe, that innumerable questions of this sort are determined solely by *custom*; not that custom possesses any proper authority to alter

or ascertain the nature of right and wrong; but because the contracting parties are presumed to include in their stipulation, all the conditions which custom has annexed to contracts of the same sort: and when the usage is notorious, and no exception made to it, this presumption is generally agreeable to the fact *.

If I order a pipe of port from a wine-merchant abroad; at what period the property passes from the merchant to me; whether upon delivery of the wine at the merchant's warehouse; upon its being put on shipboard at Oporto; upon the arrival of the ship in England; at its destined port; or not till the wine be committed to my servants, or deposited in my cellar; are all questions which admit of no decision, but what custom points out. Whence, in justice, as well as law, what is called the *custom of merchants*, regulates the construction of mercantile concerns.

* It happens here, as in many cases, that what the parties ought to do, and what a judge or arbitrator would award to be done, may be very different. What the parties ought to do by virtue of their contract, depends upon their consciousness at the time of making it: whereas a third person finds it necessary to found his judgement upon presumptions, which presumptions may be false, although the most probable that he could proceed by.

CHAPTER VIII.

CONTRACTS OF HAZARD.

By Contracts of Hazard, I mean gaming and insurance.

What some say of this kind of contracts, "that one side ought not to have any advantage over the other," is neither practicable nor true. It is not practicable; for that perfect equality of skill and judgement, which this rule requires, is seldom to be met with. I might not have it in my power to play with fairness a game at cards, billiards, or tennis; lay a wager at a horse-race; or underwrite a policy of insurance, once in a twelvemonth, if I must wait till I meet with a person, whose art, skill, and judgement in these matters, is neither greater nor less than my own. Nor is this equality requisite to the justice of the contract. One party may give to the other the whole of the stake, if he please, and the other party may justly accept it, if it be given him; much more therefore may one give to the other a part of the stake; or, what

is exactly the same thing, an advantage in the chance of winning the whole.

The proper restriction is, that neither side have an advantage by means of which the other is not aware; for, this is an advantage taken, without being *given*. Although the event be still an uncertainty, your advantage in the chance has a certain value; and so much of the stake, as that value amounts to, is taken from your adversary without his knowledge, and therefore without his consent. If I sit down to a game at whist, and have an advantage over the adversary, by means of a better memory, closer attention, or a superior knowledge of the rules and chances of the game, the advantage is fair; because it is obtained by means of which the adversary is aware: for he is aware, when he sits down with me, that I shall exert the skill that I possess to the utmost. But if I gain an advantage, by packing the cards, glancing my eye into the adversaries' hands, or by concerted signals with my partner, it is a dishonest advantage; because it depends upon means which the adversary never suspects that I make use of.

The same distinction holds of all contracts into which chance enters. If I lay

a wager at a horse-race, founded upon the conjecture I form from the appearance, and character, and breed of the horses, I am justly entitled to any advantage which my judgement gives me: but, if I carry on a clandestine correspondence with the jockeys, and find out from them, that a trial has been actually made, or that it is settled beforehand which horse shall win the race; all such information is so much fraud, because derived from sources of which the other did not suspect, when he proposed or accepted the wager.

In speculations in trade, or in the stocks, if I exercise my judgement upon the general aspect and prospect of public affairs, and deal with a person who conducts himself by the same sort of judgement; the contract has all the equality in it which is necessary: but if I have access to secrets of state at home, or private advice of some decisive measure or event abroad, I cannot avail myself of these advantages with justice, because they are excluded by the contract which proceeded upon the supposition, that I had no such advantage.

In insurances, in which the underwriter computes his risk entirely from the account

given by the person insured, it is absolutely necessary to the justice and validity of the contract, that this account be exact and complete.

CHAPTER IX.

CONTRACTS OF LENDING OF INCONSUMABLE PROPERTY.

When the identical loan is to be returned, as a book, a horse, a harpsichord, it is called *inconsumable*, in opposition to corn, wine, money, and those things which perish, or are parted with in the use, and can therefore only be restored in kind.

The questions under this head are few and simple. The first is, if the thing lent be lost or damaged, who ought to bear the loss or damage? If it be damaged by the use, or by accident in the use, for which it was lent, the lender ought to bear it; as if I hire a job-coach, the wear, tear, and soiling of the coach must belong to the lender; or a horse, to go a particular journey, and in going the proposed journey, the horse die, or be lamed, the loss must

be the lender's: on the contrary, if the damage be occasioned by the fault of the borrower, or by accident in some use for which it was not lent, then the borrower must make it good; as if the coach be overturned or broken to pieces by the carelessness of your coachman; or the horse be hired to take a morning's ride upon, and you go a hunting with him, or leap him over hedges, or put him into your cart or carriage, and he be strained, or staked, or galled, or accidentally hurt, or drop down dead, whilst you are thus using him; you must make satisfaction to the owner.

The two cases are distinguished by this circumstance, that in one case, the owner foresees the damage or risk, and therefore consents to undertake it; in the other case he does not.

It is possible that an estate or a house may, during the term of a lease, be so increased or diminished in its value, as to become worth much more, or much less, than the rent agreed to be paid for it. In some of which cases it may be doubted, to whom, of natural right, the advantage or disadvantage belongs. The rule of justice seems to be this: If the alteration might

be *expected* by the parties, the hirer must take the consequence; if it could not, the owner. An orchard, or a vineyard, or a mine, or a fishery, or a decoy, may this year yield nothing, or next to nothing, yet the tenant shall pay his rent; and if they next year produce tenfold the usual profit, no more shall be demanded; because the produce is in its nature precarious, and this variation might be expected. If an estate in the fens of Lincolnshire, or the isle of Ely, be overflowed with water so as to be incapable of occupation, the tenant, notwithstanding, is bound by his lease; because he entered into it with a knowledge and foresight of the danger. On the other hand, if by the irruption of the sea into a country where it was never known to have come before, by the change of the course of a river, the fall of a rock, the breaking out of a volcano, the bursting of a moss, the incursions of an enemy, or by a mortal contagion amongst the cattle; if, by means like these, an estate change, or lose its value, the loss shall fall upon the owner; that is, the tenant shall either be discharged from his agreement, or be entitled to an abatement of rent. A house in London,

by the building of a bridge, the opening of a new road or street, may become of ten times its former value; and, by contrary causes, may be as much reduced in value: here also, as before, the owner, not the hirer, shall be affected by the alteration. The reason upon which our determination proceeds is this; that changes such as these, being neither foreseen, nor provided for, by the contracting parties, form no part or condition of the contract; and therefore ought to have the same effect as if no contract at all had been made (for none was made with respect to *them*), that is, ought to fall upon the owner.

CHAPTER X.

CONTRACTS CONCERNING THE LENDING OF MONEY.

THERE exists no reason in the law of nature, why a man should not be paid for the lending of his money, as well as of any other property into which the money might be converted.

The scruples that have been entertained

upon this head, and upon the foundation of which, the receiving of interest or usury (for they formerly meant the same thing) was once prohibited in almost all Christian countries*, arose from a passage in the law of MOSES, Deuteronomy, xxiii. 19, 20: "Thou shalt not lend upon usury to thy "brother; usury of money, usury of vic- "tuals, usury of any thing that is lent upon "usury; unto a stranger thou mayest lend "upon usury; but unto thy brother thou "shalt not lend upon usury."

This prohibition is now generally understood to have been intended for the Jews alone, as part of the civil or political law of that nation, and calculated to preserve amongst themselves that distribution of property, to which many of their institutions were subservient; as the marriage of an heiress within her own tribe; of a widow who was left childless, to her husband's brother; the year of jubilee, when alienated estates reverted to the family of the original proprietor:—regulations, which were never

* By a statute of JAMES the First, interest above eight pounds per cent. was prohibited (and consequently under that rate allowed), with this sage provision: *That this statute shall not be construed or expounded to allow the practice of usury in point of religion or conscience.*

thought to be binding upon any but the commonwealth of Israel.

This interpretation is confirmed, I think, beyond all controversy, by the distinction made in the law, between a Jew and a foreigner:—"unto a stranger thou mayest "lend upon usury, but unto thy brother "thou mayest not lend upon usury;" a distinction which could hardly have been admitted into a law, which the Divine Author intended to be of moral and of universal obligation.

The rate of interest has in most countries been regulated by law. The Roman law allowed of twelve pounds per cent. which Justinian reduced at one stroke to four pounds. A statute of the thirteenth year of Queen Elizabeth, which was the first that tolerated the receiving of interest in England at all, restrained it to ten pounds per cent.; a statue of James the First, to eight pounds; of Charles the Second, to six pounds; of Queen Anne, to five pounds, on pain of forfeiture of treble the value of the money lent: at which rate and penalty the matter now stands. The policy of these regulations is, to check the power of accumulating wealth without industry; to give

encouragement to trade, by enabling adventurers in it to borrow money at a moderate price; and of late years, to enable the state to borrow the subject's money itself.

Compound interest, though forbidden by the law of England, is agreeable enough to natural equity; for interest detained after it is due, becomes, to all intents and purposes, part of the sum lent.

It is a question which sometimes occurs, how money borrowed in one country ought to be paid in another, where the relative value of the precious metals is not the same. For example, suppose I borrow a hundred guineas in London, where each guinea is worth one-and-twenty shillings, and meet my creditor in the East Indies where a guinea is worth no more perhaps than nineteen, is it a satisfaction of the debt to return a hundred guineas; or must I make up so many times one-and-twenty shillings? I should think the latter; for it must be presumed, that my creditor, had he not lent me his guineas, would have disposed of them in such a manner, as to have now had, in the place of them, so many one-and-twenty shillings; and the question supposes that he neither intended, nor ought

to be a sufferer, by parting with the possession of his money to me.

When the relative value of coin is altered by an act of the state, if the alteration would have extended to the identical pieces which were lent, it is enough to return an equal number of pieces of the same denomination, or their present value in any other. As, if guineas were reduced by act of parliament to twenty shillings, so many twenty shillings, as I borrowed guineas, would be a just repayment. It would be otherwise, if the reduction was owing to a debasement of the coin; for then respect ought to be had to the comparative value of the old guinea and the new.

Whoever borrows money is bound in conscience to repay it. This, every man can see; but every man cannot see, or does not however reflect, that he is, in consequence also bound to use the means necessary to enable himself to repay it. "If he pay the "money when he has it, or has it to spare, "he does all that an honest man can do," and all, he imagines, that is required of him; whilst the previous measures, which are necessary to furnish him with that money, he makes no part of his care, nor

observes to be as much his duty as the other; such as selling a family-seat, or a family-estate, contracting his plan of expense, laying down his equipage, reducing the number of his servants, or any of those humiliating sacrifices, which justice requires of a man in debt, the moment he perceives that he has no reasonable prospect of paying his debts without them. An expectation which depends upon the continuance of his own life, will not satisfy an honest man, if a better provision be in his power; for it is a breach of faith to subject a creditor, when we can help it, to the risk of our life, be the event what it will; that not being the security to which credit was given.

I know few subjects which have been more misunderstood, than the law which authorises the imprisonment of insolvent debtors. It has been represented as a gratuitous cruelty, which contributed nothing to the reparation of the creditor's loss, or to the advantage of the community. This prejudice arises principally from considering the sending of a debtor to gaol, as an act of private satisfaction to the creditor, instead of a public punishment. As an act

of satisfaction or revenge, it is always wrong in the motive, and often intemperate and undistinguishing in the exercise. Consider it as a public punishment; founded upon the same reason, and subject to the same rules, as other punishments; and the justice of it, together with the degree to which it should be extended, and the objects upon whom it may be inflicted, will be apparent. There are frauds relating to insolvency, against which it is as necessary to provide punishment, as for any public crimes whatever: as where a man gets your money into his possession, and forthwith runs away with it; or, what is little better, squanders it in vicious expenses; or stakes it at the gaming-table; in the Alley; or upon wild adventures in trade; or is conscious, at the time he borrows it, that he can never repay it; or wilfully puts it out of his power, by profuse living; or conceals his effects, or transfers them by collusion to another: not to mention the obstinacy of some debtors, who had rather rot in a gaol, than deliver up their estates; for, to say the truth, the first absurdity is in the law itself, which leaves it in a debtor's power to withhold any part of his property from

the claim of his creditors. The only question is, whether the punishment be properly placed in the hands of an exasperated creditor: for which it may be said, that these frauds are so subtile and versatile, that nothing but a discretionary power can overtake them: and that no discretion is likely to be so well informed, so vigilant, or so active, as that of the creditor.

It must be remembered however, that the confinement of a debtor in gaol is a *punishment*; and that every punishment supposes a crime. To pursue, therefore, with the extremity of legal rigour, a sufferer, whom the fraud or failure of others, his own want of capacity, or the disappointments and miscarriages to which all human affairs are subject, have reduced to ruin, merely because we are provoked by our loss, and seek to relieve the pain we feel by that which we inflict, is repugnant not only to humanity, but to justice: for it is to pervert a provision of law, designed for a different and a salutary purpose, to the gratification of private spleen and resentment. Any alteration in these laws, which could distinguish the degrees of guilt, or convert the service of the insolvent debtor to some

public profit, might be an improvement; but any considerable mitigation of their rigour, under colour of relieving the poor, would increase their hardships. For whatever deprives the creditor of his power of coercion, deprives him of his security; and as this must add greatly to the difficulty of obtaining credit, the poor, especially the lower sort of tradesmen, are the first who would suffer by such a regulation. As tradesmen must buy *before* they sell, you would exclude from trade two thirds of those who now carry it on, if none were enabled to enter into it without a capital sufficient for prompt payments. An advocate, therefore, for the interests of this important class of the community, will deem it more eligible, that one out of a thousand should be sent to gaol by his creditors, than that the nine-hundred-and-ninety-nine should be straitened and embarrassed, and many of them lie idle, by the want of credit.

CHAPTER XI.

CONTRACTS OF LABOUR.

SERVICE.

SERVICE in this country is, as it ought to be, voluntary, and by contract; and the master's authority extends no farther than the terms or equitable construction of the contract will justify.

The treatment of servants, as to diet, discipline, and accommodation, the kind and quantity of work to be required of them, the intermission, liberty, and indulgence to be allowed them, must be determined in a great measure by custom; for where the contract involves so many particulars, the contracting parties express a few perhaps of the principal, and, by mutual understanding, refer the rest to the known custom of the country in like cases.

A servant is not bound to obey the unlawful commands of his master; to minister, for instance, to his unlawful pleasures; or to assist him by unlawful practices in his profession; as in smuggling or adulterating

the articles in which he deals. For the servant is bound by nothing but his own promise; and the obligation of a promise extends not to things unlawful.

For the same reason, the master's authority is no *justification* of the servant in doing wrong; for the servant's own promise, upon which that authority is founded, would be none.

Clerks and apprentices ought to be employed entirely in the profession or trade which they are intended to learn. Instruction is their hire; and to deprive them of the opportunities of instruction, by taking up their time with occupations foreign to their business, is to defraud them of their wages.

The master is responsible for what a servant does in the ordinary course of his employment; for it is done under a general authority committed to him, which is in justice equivalent to a specific direction. Thus, if I pay money to a banker's clerk, the banker is accountable; but not if I had paid it to his butler or his footman, whose business it is not to receive money. Upon the same principle, if I once send a servant to take up goods upon credit, whatever

goods he afterwards takes up at the same shop, so long as he continues in my service, are justly chargeable to my account.

The law of this country goes great lengths in intending a kind of concurrence in the master, so as to charge him with the consequences of his servant's conduct. If an inn-keeper's servant rob his guests, the inn-keeper must make restitution; if a farrier's servant lame a horse, the farrier must answer for the damage; and still farther, if your coachman or carter drive over a passenger in the road, the passenger may recover from you a satisfaction for the hurt he suffers. But these determinations stand, I think, rather upon the authority of the law, than any principle of natural justice.

There is a carelessness and facility in "giving characters," as it is called, of servants, especially when given in writing, or according to some established form, which, to speak plainly of it, is a cheat upon those who accept them. They are given with so little reserve and veracity, "that I should "as soon depend," says the author of the Rambler, "upon an acquittal at the Old "Bailey, by way of recommendation of a "servant's honesty, as upon one of these

"characters." It is sometimes carelessness; and sometimes also to get rid of a bad servant without the uneasiness of a dispute; for which nothing can be pleaded but the most ungenerous of all excuses, that the person whom we deceive is a stranger.

There is a conduct the reverse of this, but more injurious, because the injury falls where there is no remedy; I mean the obstructing of a servant's advancement, because you are unwilling to spare his service. To stand in the way of your servant's interest, is a poor return for his fidelity; and affords slender encouragement for good behaviour, in this numerous and therefore important part of the community. It is a piece of injustice which, if practised towards an equal, the law of honour would lay hold of; as it is, it is neither uncommon nor disreputable.

A master of a family is culpable, if he permit any vices among his domestics, which he might restrain by due discipline, and a proper interference. This results from the general obligation to prevent misery when in our power; and the assurance which we have, that vice and misery at the long run go together. Care to maintain in his

family a sense of virtue and religion, received the Divine approbation in the person of ABRAHAM, Gen. xviii. 19:—"I know "him, that he will command his children, "and *his household* after him; and they "shall keep the way of the LORD, to do "justice and judgement." And indeed no authority seems so well adapted to this purpose, as that of masters of families; because none operates upon the subjects of it with an influence so immediate and constant.

What the Christian Scriptures have delivered concerning the relation and reciprocal duties of masters and servants, breathes a spirit of liberality, very little known in ages when servitude was slavery; and which flowed from a habit of contemplating mankind under the common relation in which they stand to their Creator, and with respect to their interest in another existence*: "Servants, be obedient to them "that are your masters, according to the "flesh, with fear and trembling; in single-"ness of your heart, as unto Christ; not "with eye-service, as men-pleasers, but as "the servants of Christ, doing the will of "God from the heart; *with good will, doing*

* Eph. vi. 5—9.

" *service as to the Lord, and not to men:*
" knowing that whatsoever good thing any
" man doeth, the same shall he receive of
" the LORD, whether he be bond or free.
" And ye masters do the same thing unto
" them, forbearing threatening; *knowing*
" *that your Master also is in heaven;* neither
" is there respect of persons with him."
The idea of referring their service to God, of considering *him* as having appointed them their task, that they were doing *his* will, and were to look to *him* for their reward, was new; and affords a greater security to the master than any inferior principle, because it tends to produce a steady and cordial obedience, in the place of that constrained service, which can never be trusted out of sight, and which is justly enough called eye-service. The exhortation to masters, to keep in view their own subjection and accountableness, was no less seasonable.

CHAPTER XII.

CONTRACTS OF LABOUR.

COMMISSIONS.

WHOEVER undertakes another man's business, makes it his own, that is, promises to employ upon it the same care, attention, and diligence, that he would do if it were actually his own: for he knows that the business was committed to him with that expectation. And he promises nothing more than this. Therefore an agent is not obliged to wait, inquire, solicit, ride about the country, toil, or study, whilst there remains a possibility of benefitting his employer. If he exert so much of his activity, and use such caution, as the value of the business, in his judgement, deserves; that is, as he would have thought sufficient if the same interest of his own had been at stake, he has discharged his duty, although it should afterwards turn out, that by more activity, and longer perseverance, he might have concluded the business with greater advantage.

This rule defines the duty of factors, stewards, attorneys, and advocates.

One of the chief difficulties of an agent's situation is, to know how far he may depart from his instructions, when, from some change or discovery in the circumstances of his commission, he sees reason to believe that his employer, if he were present, would alter his intention. The latitude allowed to agents in this respect, will be different, according as the commission was confidential or ministerial; and according as the general rule and nature of the service require a prompt and precise obedience to orders, or not. An attorney, sent to treat for an estate, if he found out a flaw in the title, would desist from proposing the price he was directed to propose; and very properly. On the other hand, if the commander-in-chief of an army detach an officer under him upon a particular service, which service turns out more difficult, or less expedient, than was supposed, insomuch that the officer is convinced that his commander, if he were acquainted with the true state in which the affair is found, would recall his orders; yet must this officer, if he cannot wait for fresh directions

without prejudice to the expedition he is sent upon, pursue, at all hazards, those which he brought out with him.

What is trusted to an agent, may be lost or damaged in his hands by *misfortune*. An agent who acts without pay, is clearly not answerable for the loss; for, if he give his labour for nothing, it cannot be presumed that he gave also security for the success of it. If the agent be hired to the business, the question will depend upon the apprehension of the parties at the time of making the contract; which apprehension of theirs must be collected chiefly from custom, by which probably it was guided. Whether a public carrier ought to account for goods sent by him; the owner or master of a ship for the cargo; the post-office for letters, or bills enclosed in letters, where the loss is not imputed to any fault or neglect of theirs; are questions of this sort. Any expression which by implication amounts to a promise, will be binding upon the agent, without custom; as where the proprietors of a stage-coach advertise that they will *not* be accountable for money, plate, or jewels, this makes them accountable for every thing else; or where the price

is too much for the labour, part of it may be considered as a premium for ensurance. On the other hand, any caution on the part of the owner to guard against danger, is evidence that he considers the risk to be his; as cutting a bank-bill in two, to send by the post at different times.

Universally, unless a *promise*, either express or tacit, can be proved against the agent, the loss must fall upon the owner.

The agent may be a sufferer in his own person or property by the business which he undertakes; as where one goes a journey for another, and lames his horse, or is hurt himself, by a fall upon the road; can the agent in such case claim a compensation for the misfortune? Unless the same be provided for by express stipulation, the agent is not entitled to any compensation from his employer on that account: for where the danger is not foreseen, there can be no reason to believe, that the employer engaged to indemnify the agent against it: still less where it is foreseen: for whoever knowingly undertakes a dangerous employment, in common construction, takes upon himself the danger and the consequences; as where a fireman undertakes for a reward

to rescue a box of writings from the flames: or a sailor to bring off a passenger from a ship in a storm.

CHAPTER XIII.

CONTRACTS OF LABOUR.

PARTNERSHIP.

I KNOW nothing upon the subject of partnership that requires explanation, but in what manner the profits are to be divided, where one partner contributes money, and the other labour; which is a common case.

Rule. From the stock of the partnership deduct the sum advanced, and divide the remainder between the moneyed partner and the labouring partner, in the proportion of the interest of the money to the wages of the labourer, allowing such a rate of interest as money might be borrowed for upon the same security, and such wages as a journeyman would require for the same labour and trust.

Example. A advances a thousand pounds, but knows nothing of the business; B pro-

duces no money, but has been brought up to the business, and undertakes to conduct it. At the end of the year, the stock and the effects of the partnership amount to twelve hundred pounds; consequently there are two hundred pounds to be divided. Now, nobody would lend money upon the event of the business succeeding, which is A's security, under six per cent.;—therefore A must be allowed sixty pounds for the interest of his money. B, before he engaged in the partnership, earned thirty pounds a year in the same employment; his labour therefore ought to be valued at thirty pounds: and the two hundred pounds must be divided between the partners in the proportion of sixty to thirty; that is, A must receive one-hundred-and-thirty-three pounds six shillings and eight pence, and B sixty-six pounds thirteen shillings and four pence.

If there be nothing gained, A loses his interest, and B his labour; which is right. If the original stock be diminished, by this rule B loses only his labour, as before; whereas A loses his interest, and part of the principal; for which eventual disadvantage A is compensated, by having the interest of his money computed at six per

cent. in the division of the profits, when there are any.

It is true, that the division of the profit is seldom forgotten in the constitution of the partnership, and is therefore commonly settled by express agreements: but these agreements, to be equitable, should pursue the principle of the rule here laid down.

All the partners are bound to what any one of them does in the course of the business; for, *quoad hoc*, each partner is considered as an authorised agent for the rest.

CHAPTER XIV.

CONTRACTS OF LABOUR.

OFFICES.

In many offices, as schools, fellowships of colleges, professorships of the universities, and the like, there is a two-fold contract, one with the founder, the other with the electors.

The contract with the founder obliges the incumbent of the office to discharge every duty appointed by the charter, statutes, deed of gift, or will of the founder;

because the endowment was given, and consequently accepted for that purpose, and upon those conditions.

The contract with the electors extends this obligation to all duties that have been *customarily* connected with and reckoned a part of the office, though not prescribed by the founder: for the electors expect from the person they choose, all the duties which his predecessors have discharged: and as the person elected cannot be ignorant of their expectation, if he meant to have refused this condition, he ought to have apprised them of his objection.

And here let it be observed, that the electors can excuse the conscience of the person elected, from this last class of duties alone; because this class results from a contract to which the electors and the person elected are the only parties. The other class of duties results from a different contract.

It is a question of some magnitude and difficulty, what offices may be conscientiously supplied by a deputy.

We will state the several objections to the substitution of a deputy: and then it will be understood, that a deputy may be

allowed in all cases to which these objections do not apply.

An office may not be discharged by deputy,

1. Where a particular confidence is reposed in the judgement and conduct of the person appointed to it; as the office of a steward, guardian, judge, commander-in-chief by land or sea.

2. Where the custom hinders; as in the case of schoolmasters, tutors, and of commissions in the army or navy.

3. Where the duty cannot, from its nature, be so well performed by a deputy; as the deputy-governor of a province may not possess the legal authority, or the actual influence, of his principal.

4. When some inconveniency would result to the service in general from the permission of deputies in such cases: for example, it is probable that military merit would be much discouraged, if the duties belonging to commissions in the army were generally allowed to be executed by substitutes.

The non-residence of the parochial clergy, who supply the duty of their benefices by curates, is worthy of a more distinct consi-

deration. And in order to draw the question upon this case to a point, we will suppose the officiating curate to discharge every duty which his principal, were he present, would be bound to discharge, and in a manner equally beneficial to the parish: under which circumstances, the only objection to the absence of the principal, at least the only one of the foregoing objections, is the last.

And, in my judgement, the force of this objection will be much diminished, if the absent rector or vicar be, in the mean time, engaged in any function or employment of equal, or of greater importance to the general interest of religion. For the whole revenue of the national church may properly enough be considered as a common fund for the support of the national religion; and if a clergyman be serving the cause of Christianity and protestantism, it can make little difference, out of what particular portion of this fund, that is, by the tithes and glebe of what particular parish, his service be requited: any more than it can prejudice the king's service that an officer who has signalised his merit in

America, should be rewarded with the government of a fort or castle in Ireland, which he never saw; but for the custody of which, proper provision is made, and care taken.

Upon the principle thus explained, this indulgence is due to none more than to those who are occupied in cultivating or communicating religious knowledge, or the sciences subsidiary to religion.

This way of considering the revenues of the church as a common fund for the same purpose, is the more equitable, as the value of particular preferments bears no proportion to the particular charge or labour.

But when a man draws upon this fund, whose studies and employments bear no relation to the object of it; and who is no further a minister of the Christian religion, than as a cockade makes a soldier, it seems a misapplication little better than a robbery.

And to those who have the management of such matters I submit this question, whether the impoverishment of the fund, by converting the best share of it into *annuities* for the gay and illiterate youth of

great families, threatens not to starve and stifle the little clerical merit that is left amongst us?

All legal dispensations from residence proceed upon the supposition, that the absentee is detained from his living by some engagement of equal or of greater public importance. Therefore, if, in a case where no such reason can with truth be pleaded, it be said that this question regards a right of property, and that all right of property awaits the disposition of law; that, therefore, if the law, which gives a man the emoluments of a living, excuse him from residing upon it, he is excused in conscience; we answer that the law does not excuse him *by intention*, and that all other excuses are fraudulent.

CHAPTER XV.

LIES.

A LIE is a breach of promise: for whoever seriously addresses his discourse to another, tacitly promises to speak the truth, because he knows that the truth is expected.

Or the obligation of veracity may be made out from the direct ill consequences of lying to social happiness. Which consequences consist, either in some specific injury to particular individuals, or in the destruction of that confidence, which is essential to the intercourse of human life: for which latter reason, a lie may be pernicious in its general tendency, and therefore criminal, though it produce no particular or visible mischief to any one.

There are falsehoods which are not lies; that is, which are not criminal: as,

1. Where no one is deceived; which is the case in parables, fables, novels, jests, tales to create mirth, ludicrous embellishments of a story, where the declared design of the speaker is not to inform, but to divert; compliments in the subscription of a letter, a servant's *denying* his master, a prisoner's pleading not guilty, an advocate asserting the justice, or his belief of the justice, of his client's cause. In such instances, no confidence is destroyed, because none was reposed; no promise to speak the truth is violated, because none was given, or understood to be given.

2. Where the person to whom you speak,

has no right to know the truth, or, more properly, where little or no inconveniency results from the want of confidence in such cases; as where you tell a falsehood to a madman, for his own advantage; to a robber, to conceal your property; to an assassin, to defeat or divert him from his purpose. The particular consequence is by the supposition beneficial; and, as to the general consequence, the worst that can happen is, that the madman, the robber, the assassin, will not trust you again; which (beside that the first is incapable of deducing regular conclusions from having been once deceived, and the last two not likely to come a second time in your way) is sufficiently compensated by the immediate benefit which you propose by the falsehood.

It is upon this principle, that, by the laws of war, it is allowed to deceive an enemy by feints, false colours*, spies, false

* There have been two or three instances of late, of English ships decoying an enemy into their power, by counterfeiting signals of distress; an artifice which ought to be reprobated by the common indignation of mankind! for, a few examples of captures effected by this stratagem, would put an end to that promptitude in affording assistance to ships in distress, which is the best virtue in a seafaring character, and by which the perils of navigation are diminished to all.—A. D. 1775.

intelligence, and the like; but by no means in treaties, truces, signals of capitulation, or surrender: and the difference is, that the former suppose hostilities to continue, the latter are calculated to terminate or suspend them. In the *conduct* of war, and whilst the war continues, there is no use, or rather no place, for confidence betwixt the contending parties; but in whatever relates to the *termination* of war, the most religious fidelity is expected, because without it wars could not cease, nor the victors be secure, but by the entire destruction of the vanquished.

Many people indulge, in serious discourse, a habit of fiction and exaggeration, in the accounts they give of themselves, of their acquaintance, or of the extraordinary things which they have seen or heard: and so long as the facts they relate are indifferent, and their narratives, though false, are inoffensive, it may seem a superstitious regard to truth to censure them merely for truth's sake.

In the first place, it is almost impossible to pronounce beforehand, with certainty, concerning any lie, that it is inoffensive. *Volat irrevocabile*; and collects sometimes

accretions in its flight, which entirely change its nature. It may owe possibly its mischief to the officiousness or misrepresentation of those who circulate it; but the mischief is, nevertheless, in some degree chargeable upon the original editor.

In the next place, this liberty in conversation defeats its own end. Much of the pleasure, and all the benefit of conversation, depends upon our opinion of the speaker's veracity; for which this rule leaves no foundation. The faith indeed of a hearer must be extremely perplexed, who considers the speaker, or believes that the speaker considers himself, as under no obligation to adhere to truth, but according to the particular importance of what he relates.

But beside and above both these reasons, *white* lies always introduce others of a darker complexion. I have seldom known any one who deserted truth in trifles, that could be trusted in matters of importance. Nice distinctions are out of the question, upon occasions which, like those of speech, return every hour. The habit, therefore, of lying, when once formed, is easily extended, to serve the designs of malice or

interest;—like all habits, it spreads indeed of itself.

Pious frauds, as they are improperly enough called, pretended inspirations, forged books, counterfeit miracles, are impositions of a more serious nature. It is possible that they may sometimes, though seldom, have been set up and encouraged, with a design to do good: but the good they aim at, requires that the belief of them should be perpetual, which is hardly possible; and the detection of the fraud is sure to disparage the credit of all pretensions of the same nature. Christianity has suffered more injury from this cause, than from all other causes put together.

As there may be falsehoods which are not lies, so there may be lies without literal or direct falsehood. An opening is always left for this species of prevarication, when the literal and grammatical signification of a sentence is different from the popular and customary meaning. It is the wilful deceit that makes the lie; and we wilfully deceive, when our expressions are not true in the sense in which we believe the hearer to apprehend them: besides that it is absurd to contend for any sense of words, in oppo-

sition to usage; for, all senses of all words are founded upon usage, and upon nothing else.

Or a man may *act* a lie; as by pointing his finger in a wrong direction, when a traveller inquires of him his road; or when a tradesman shuts up his windows, to induce his creditors to believe that he is abroad: for, to all moral purposes, and therefore as to veracity, speech and action are the same; speech being only a mode of action.

Or, lastly, there may be lies of *omission*. A writer of English history, who, in his account of the reign of Charles the First, should wilfully suppress any evidence of that prince's despotic measures and designs, might be said to lie; for, by entitling his book a *History of England*, he engages to relate the whole truth of the history, or at least, all that he knows of it.

CHAPTER XVI.

OATHS.

I. *Forms of Oaths.*
II. *Signification.*
III. *Lawfulness.*
IV. *Obligation.*
V. *What Oaths do not bind.*
VI. *In what Sense Oaths are to be interpreted.*

I. The forms of oaths, like other religious ceremonies, have in all ages been various; consisting however, for the most part, of some bodily action *, and of a prescribed form of words. Amongst the Jews, the juror held up his right-hand towards heaven, which explains a passage in the 144th Psalm: "Whose mouth speaketh vanity, and "*their right-hand is a right-hand of falsehood.*" The same form is retained in Scotland still. Amongst the same Jews, an

* It is commonly thought that oaths are denominated *corporeal* oaths from the bodily action which accompanies them, of laying the right-hand upon a book containing the four Gospels. This opinion, however, appears to be a mistake; for the term is borrowed from the ancient usage of touching, on these occasions, the *corporale*, or cloth which covered the consecrated elements.

oath of fidelity was taken, by the servant's putting his hand under the thigh of his lord, as Eliezer did to Abraham, Gen. xxiv. 2.; from whence, with no great variation, is derived perhaps the form of doing homage at this day, by putting the hands between the knees, and within the hands of the liege.

Amongst the Greeks and Romans, the form varied with the subject and occasion of the oath. In private contracts, the parties took hold of each other's hand, whilst they swore to the performance; or they touched the altar of the god by whose divinity they swore. Upon more solemn occasions, it was the custom to slay a victim; and the beast being *struck down*, with certain ceremonies and invocations, gave birth to the expressions τεμνειν ορκον, *ferire pactum*; and to our English phrase, translated from these, of "striking a bargain."

The forms of oaths in Christian countries are also very different; but in no country in the world, I believe, worse contrived, either to convey the meaning, or impress the obligation of an oath, than in our own. The juror with us, after repeating the promise or affirmation which the oath is in-

tended to confirm, adds, "So help me "God:" or more frequently the substance of the oath is repeated to the juror by the officer or magistrate who administers it, adding in the conclusion, "So help you "God." The energy of the sentence resides in the particle *so*; *so*, that is, *hâc lege*, upon condition of my speaking the truth, or performing this promise, and not otherwise, may God help me. The juror, whilst he hears or repeats the words of the oath, holds his right-hand upon a Bible, or other book containing the four Gospels. The conclusion of the oath sometimes runs, "Ita me Deus adjuvet, et hæc sancta evan-"gelia," or "So help me God, and the "contents of this book;" which last clause forms a connexion between the words and action of the juror, that before was wanting. The juror then kisses the book: the kiss, however, seems rather an act of reverence to the contents of the book (as, in the popish ritual, the priest kisses the Gospel before he reads it), than any part of the oath.

This obscure and elliptical form, together with the levity and frequency with which it is administered, has brought about a ge-

neral inadvertency to the obligation of oaths; which, both in a religious and political view, is much to be lamented: and it merits public consideration, whether the requiring of oaths on so many frivolous occasions, especially in the Customs, and in the qualification for petty offices, has any other effect, than to make them cheap in the minds of the people. A pound of tea cannot travel regularly from the ship to the consumer, without costing half a dozen oaths at the least; and the same security for the due discharge of their office, namely, that of an oath, is required from a churchwarden and an archbishop, from a petty constable and the chief justice of England. Let the law continue its own sanctions, if they be thought requisite; but let it spare the solemnity of an oath.' And where, from the want of something better to depend upon, it is necessary to accept men's own word or own account, let it annex to prevarication penalties proportioned to the public mischief of the offence.

II. But whatever be the form of an oath, the *signification* is the same. It is "the "calling upon God to witness, *i. e.* to take "notice of what we say," and it is "invok-

" ing his vengeance, or renouncing his fa-
" vour, if what we say be false, or what we
" promise be not performed."

III. Quakers and Moravians refuse to swear upon any occasion; founding their scruples concerning the *lawfulness* of oaths upon our Saviour's prohibition, Matt. v. 34. " I say unto you, Swear not at all."

The answer which we give to this objection cannot be understood, without first stating the whole passage: " Ye have " heard that it hath been said by them of " old time, Thou shalt not forswear thyself, " but shalt perform unto the Lord thine " oaths. But I say unto you, Swear not at " all; neither by heaven, for it is God's " throne; nor by the earth, for it is his foot- " stool; neither by Jerusalem, for it is the " city of the great King. Neither shalt " thou swear by thy head, because thou " canst not make one hair white or black. " But let your communication be, Yea, " yea; Nay, nay: for whatsoever is more " than these, cometh of evil."

To reconcile with this passage of Scripture the practice of swearing, or of taking oaths, when required by law, the following observations must be attended to:

1. It does not appear, that swearing "by "heaven," "by the earth," "by Jerusalem," or "by their own head," was a form of swearing ever made use of amongst the Jews in judicial oaths: and, consequently, it is not probable that they were judicial oaths, which Christ had in his mind when he mentioned those instances.

2. As to the seeming universality of the prohibition, "Swear not at all," the emphatic clause "not at all" is to be read in connexion with what follows; "not at all," *h. e.* neither "by the heaven," nor "by the "earth," nor "by Jerusalem," nor "by "thy head:" "*not at all*," does not mean upon no occasion, but by none of these forms. Our Saviour's argument seems to suppose, that the people to whom he spake, made a distinction between swearing directly by the "name of God" and swearing by those inferior objects of veneration, "the heavens," "the earth," "Jerusalem," or "their own head." In opposition to which distinction, he tells them, that on account of the relation which these things bore to the Supreme Being, to swear by any of them, was in effect and substance to swear by *him*: "by heaven, for it is his

" throne; by the earth, for it is his foot-
" stool; by Jerusalem, for it is the city of
" the great King; by thy head, for it is *his*
" workmanship, not *thine*,—thou canst not
" make one hair white or black;" for which reason he says, " Swear *not at all*," that is, neither directly by God, nor indirectly by any thing related to him. This interpretation is greatly confirmed by a passage in the twenty-third chapter of the same Gospel, where a similar distinction, made by the Scribes and Pharisees, is replied to in the same manner.

3. Our Saviour himself being " adjured
" by the living God," to declare whether he was the Christ, the Son of God, or not, condescended to answer the high priest, without making any objection to the oath (for such it was) upon which he examined him.—" *God is my witness*," says St. Paul to the Romans, " that without ceasing I make
" mention of you in my prayers:" and to the Corinthians still more strongly, " *I call God for a record upon my soul*, that, to
" spare you, I came not as yet to Corinth." Both these expressions contain the nature of oaths. The epistle to the Hebrews speaks of the custom of swearing judicially,

without any mark of censure or disapprobation: "Men verily swear by the greater; "and an oath, for confirmation, is to them "an end of all strife."

Upon the strength of these reasons, we explain our Saviour's words to relate, not to judicial oaths, but to the practice of vain, wanton, and unauthorised swearing, in common discourse. St. James's words, chap. v. 12, are not so strong as our Saviour's, and therefore admit the same explanation with more ease.

IV. Oaths are nugatory, that is, carry with them no *proper* force or obligation, unless we believe that God will punish false swearing with more severity than a simple lie, or breach of promise; for which belief there are the following reasons:

1. Perjury is a sin of greater deliberation. The juror has the thought of God and of religion upon his mind at the time; at least, there are very few who can shake them off entirely. He offends, therefore, if he do offend, with a high hand; in the face, that is, and in defiance of the sanctions of religion. His offence implies a disbelief or contempt of God's knowledge, power, and justice; which cannot be said

of a lie where there is nothing to carry the mind to any reflection upon the Deity, or the Divine Attributes at all.

2. Perjury violates a superior confidence. Mankind must trust to one another; and they have nothing better to trust to than one another's oath. Hence legal adjudications, which govern and affect every right and interest on this side of the grave, of necessity proceed and depend upon oaths. Perjury, therefore, in its general consequence, strikes at the security of reputation, property, and even of life itself. A lie cannot do the same mischief, because the same credit is not given to it*.

3. God directed the Israelites to swear by his name †; and was pleased, "in or-"der to show the immutability of his own "counsel ‡," to confirm his covenant with that people by an oath: neither of which it is probable he would have done, had he not intended to represent oaths as having some meaning and effect beyond the obligation of a bare promise; which effect

* Except, indeed, where a Quaker's or Moravian's affirmation is accepted in the place of an oath; in which case, a lie partakes, so far as this reason extends, of the nature and guilt of perjury.

† Deut. vi. 13. x. 20. ‡ Heb. vi. 17.

must be owing to the severer punishment with which he will vindicate the authority of oaths.

V. Promissory oaths are *not binding* where the promise itself would not be so: for the several cases of which, see the Chapter of Promises.

VI. As oaths are designed for the security of the imposer, it is manifest that they must be *interpreted* and performed in the sense in which the imposer intends them; otherwise, they afford no security to *him*. And this is the meaning and reason of the rule, "jurare in animum imponentis;" which rule the reader is desired to carry along with him, whilst we proceed to consider certain particular oaths, which are either of greater importance, or more likely to fall in our way, than others.

CHAPTER XVII.

OATH IN EVIDENCE.

The witness swears "to speak the truth, "the whole truth, and nothing but the "truth, touching the matter in question."

Upon which it may be observed, that the designed concealment of any truth, which relates to the matter in agitation, is as much a violation of the oath, as to testify a positive falsehood; and this, whether the witness be interrogated to that particular point or not. For when the person to be examined, is sworn upon a *voir dire*, that is, in order to inquire, whether he ought to be admitted to give evidence in the cause at all, the form runs thus: "You shall true "answer make to all such questions as shall "be asked you:" but when he comes to be sworn *in chief*, he swears "to speak the "whole truth," without restraining it, as before, to the questions that shall be asked: which difference shows, that the law intends, in this latter case, to require of the witness, that he give a complete and unreserved account of what he knows of the subject of the trial, whether the questions proposed to him reach the extent of his knowledge or not. So that if it be inquired of the witness afterwards, why he did not inform the court so and so, it is not a sufficient, though a very common answer, to say, "because it was never asked me."

I know but one exception to this rule;

which is, when a full discovery of the truth tends to accuse the witness himself of some legal crime. The law of England constrains no man to become his own accuser; consequently imposes the oath of testimony with this tacit reservation. But the exception must be confined to *legal* crimes. A point of honour, of delicacy, or of reputation, may make a witness backward to disclose some circumstance with which he is acquainted; but will in no wise justify his concealment of the truth, unless it could be shown, that the law which imposes the oath, intended to allow this indulgence to such motives. The exception of which we are speaking, is also withdrawn by a compact between the magistrate and the witness, when an accomplice is admitted to give evidence against the partners of his crime.

Tenderness to the prisoner, although a specious apology for concealment, is no just excuse: for if this plea be thought sufficient, it takes the administration of penal justice out of the hands of judges and juries, and makes it depend upon the temper of prosecutors and witnesses.

Questions may be asked, which are irre-

lative to the cause, which affect the witness himself, or some third person; in which, and in all cases where the witness doubts of the pertinency and propriety of the question, he ought to refer his doubts to the court. The answer of the court, in relaxation of the oath, is authority enough to the witness; for the law which imposes the oath, may remit what it will of the obligation; and it belongs to the court to declare what the mind of the law is. Nevertheless, it cannot be said universally, that the answer of the court is conclusive upon the conscience of the witness; for his obligation depends upon what he apprehended, at the time of taking the oath, to be the design of the law in imposing it, and no after-requisition or explanation by the court can carry the obligation beyond that.

CHAPTER XVIII.

OATH OF ALLEGIANCE.

"I DO sincerely promise and swear, that "I will be faithful and bear true *allegiance* "to his Majesty King GEORGE." For-

merly the oath of allegiance ran thus: "I "do promise to be true and faithful to the "king and his heirs, and truth and faith "to bear, of life, and limb, and terrene "honour; and not to know or hear of any "ill or damage intended him, without de- "fending him therefrom:" and was altered at the Revolution to the present form. So that the present oath is a relaxation of the old one. And as the oath was intended to ascertain, not so much the extent of the subject's obedience, as the person to whom it was due, the legislature seems to have wrapped up its meaning upon the former point, in a word purposely made choice of for its general and indeterminate signification.

It will be most convenient to consider, first, what the oath excludes, as inconsistent with it; secondly, what it permits.

1. The oath excludes all intention to support the claim or pretensions of any other person or persons to the crown and government, than the reigning sovereign. A Jacobite, who is persuaded of the Pretender's right to the crown, and who moreover designs to join with the adherents to that cause to assert this right, whenever a

proper opportunity, with a reasonable prospect of success presents itself, cannot take the oath of allegiance; or, if he could, the oath of abjuration follows, which contains an express renunciation of all opinions in favour of the claim of the exiled family.

2. The oath excludes all design, at the time, of attempting to depose the reigning prince, for any reason whatever. Let the justice of the Revolution be what it would, no honest man could have taken even the present oath of allegiance to James the Second, who entertained at the time of taking it, a design of joining in the measures which were entered into to dethrone him.

3. The oath forbids the taking up of arms against the reigning prince, with views of private advancement, or from motives of personal resentment or dislike. It is possible to happen in this, what frequently happens in despotic governments, that an ambitious general, at the head of the military force of the nation, might, by a conjuncture of fortunate circumstances, and a great ascendancy over the minds of the soldiery, depose the prince upon the throne, and make way to it for himself, or

for some creature of his own. A person in this situation would be withholden from such an attempt by the oath of allegiance, if he paid regard to it. If there were any who engaged in the rebellion of the year forty-five, with the expectation of titles, estates, or preferment; or because they were disappointed, and thought themselves neglected and ill-used at court; or because they entertained a family animosity, or personal resentment against the king, the favourite, or the minister;—if any were induced to take up arms by these motives, they added to the many crimes of an unprovoked rebellion, that of wilful and corrupt perjury. If, in the late American war, the same motives determined others to connect themselves with that opposition, their part in it was chargeable with perfidy and falsehood to their oath, whatever was the justice of the opposition itself, or however well founded their own complaints might be of private injury.

We are next to consider what the oath of allegiance permits, or does not require.

1. It permits resistance to the king, when his ill behaviour or imbecility is such, as to

make resistance beneficial to the community. It may fairly be presumed that the Convention Parliament, which introduced the oath in its present form, did not intend, by imposing it, to exclude all resistance, since the members of that legislature had "many of them recently taken up arms against James the Second, and the very authority by which they sat together was itself the effect of a successful opposition to an acknowledged sovereign. Some resistance, therefore, was meant to be allowed; and if any, it must be that which has the public interest for its object.

2. The oath does not require obedience to such commands of the king as are unauthorised by law. No such obedience is implied by the terms of the oath; the *fidelity* there promised, is intended of fidelity in opposition to his enemies, and not in opposition to law; and *allegiance*, at the utmost, can only signify obedience to lawful commands. Therefore, if the king should issue a proclamation, levying money, for imposing any service or restraint upon the subject beyond what the crown is empowered by law to enjoin, there would

exist no sort of obligation to obey such a proclamation, in consequence of having taken the oath of allegiance.

3. The oath does not require that we should continue our allegiance to the king, after he is actually and absolutely deposed, driven into exile, carried away captive, or otherwise rendered incapable of exercising the regal office, whether by his fault or without it. The promise of allegiance implies, and is understood by all parties to suppose, that the person to whom the promise is made continues king; continues, that is, to exercise the power, and afford the protection, which belongs to the office of king: for, it is the possession of this power, which makes such a particular person the object of the oath; without it, why should I swear allegiance to this man, rather than to any man in the kingdom? Beside which, the contrary doctrine is burthened with this consequence, that every conquest, revolution of government, or disaster which befalls the person of the prince, must be followed by perpetual and irremediable anarchy.

CHAPTER XIX.

OATH AGAINST BRIBERY IN THE ELECTION OF MEMBERS OF PARLIAMENT.

"I DO swear, I have not received, or had, "by myself, or any person whatsoever in "trust for me, or for my use and benefit, "directly or indirectly, any sum or sums of "money, office, place, or employment, gift, "or reward, or any promise or security, for "any money, office, employment, or gift, "in order to give my vote at this election."

The several contrivances to evade this oath, such as the electors accepting money under colour of borrowing it, and giving a promissory note, or other security, for it, which is cancelled after the election; receiving money from a stranger, or a person in disguise, or out of a drawer, or purse, left open for the purpose; or promises of money to be paid after the election; or stipulating for a place, living, or other private advantage of any kind; if they escape the legal penalties of perjury, incur the moral guilt: for they are manifestly within the

mischief and design of the statute which imposes the oath, and within the terms indeed of the oath itself; for the word "indirectly" is inserted on purpose to comprehend such cases as these.

CHAPTER XX.

OATH AGAINST SIMONY.

FROM an imaginary resemblance between the purchase of a benefice, and Simon Magus's attempt to purchase the gift of the Holy Ghost (Acts viii. 19), the obtaining of ecclesiastical preferment by pecuniary considerations has been termed *Simony*.

The sale of advowsons is inseparable from the allowance of private patronage; as patronage would otherwise devolve to the most indigent, and for that reason the most improper hands it could be placed in. Nor did the law ever intend to prohibit the passing of advowsons from one patron to another; but to restrain the patron, who possesses the right of presenting at the vacancy, from being influenced, in the choice of his presentee, by a bribe, or benefit to

himself. It is the same distinction with that which obtains in a freeholder's vote for his representative in parliament. The right of voting, that is the freehold, to which the right pertains, may be bought and sold as freely as any other property; but the exercise of that right, the vote itself, may not be purchased, or influenced by money.

For this purpose, the law imposes upon the presentee, who is generally concerned in the simony, if there be any, the following oath: "I do swear, that I have made no "*simoniacal* payment, contract, or promise, "directly or indirectly, by myself, or by "any other to my knowledge, or with my "consent, to any person or persons what-"soever, for or concerning the procuring "and obtaining of this ecclesiastical place, "&c.; nor will, at any time hereafter, per-"form, or satisfy, any such kind of pay-"ment, contract, or promise, made by any "other, without my knowledge or consent: "So help me God, through Jesus Christ!"

It is extraordinary that Bishop Gibson should have thought this oath to be against all promises whatsoever, when the terms of the oath expressly restrain it to *simoniacal* promises; and the law alone must pro-

nounce what promises, as well as what payments and contracts, are simoniacal, and consequently, come within the oath; and what do not so.

Now the law adjudges to be simony,

1. All payments, contracts, or promises, made by any person for a benefice *already vacant.* The advowson of a void turn, by law, cannot be transferred from one patron to another; therefore, if the void turn be procured by money, it must be by a pecuniary influence upon the then subsisting patron in the choice of his presentee, which is the very practice the law condemns.

2. A clergyman's purchasing of the *next turn* of a benefice *for himself*, "directly or "indirectly," that is, by himself, or by another person with his money. It does not appear that the law prohibits a clergyman from purchasing the perpetuity of a patronage more than any other person: but purchasing the perpetuity and forthwith selling it again, with a reservation of the next turn, and with no other design to possess himself of the next turn, is *in fraudem legis*, and inconsistent with the oath.

3. The procuring of a price of preferment, by ceding to the patron any rights, or pro-

bable rights, belonging to it. This is simony of the worst kind; for it is not only buying preferment, but robbing the succession to pay for it.

4. Promises to the patron of a portion of the profit, of a remission of tithes and dues, or other advantage out of the produce of the benefice: which kind of compact is a pernicious condescension in the clergy, independent of the oath; for it tends to introduce a practice, which may very soon become general, of giving the revenue of churches to the lay patrons, and supplying the duty by indigent stipendiaries.

5. General bonds of resignation, that is, bonds to resign upon demand.

I doubt not but that the oath against simony is binding upon the consciences of those who take it, though I question much the expediency of requiring it. It is very fit to debar public patrons, such as the king, the lord chancellor, bishops, ecclesiastical corporations, and the like, from this kind of traffic; because from them may be expected some regard to the qualifications of the persons whom they promote. But the oath lays a snare for the integrity of the clergy; and I do not perceive, that the re-

quiring of it in cases of private patronage produces any good effect, sufficient to compensate for this danger.

Where advowsons are holden along with manors, or other principal estates, it would be an easy regulation to forbid that they should ever hereafter be separated; and would, at least, keep church-preferment out of the hands of brokers.

CHAPTER XXI.

OATHS TO OBSERVE LOCAL STATUTES.

Members of colleges in the Universities, and of other ancient foundations, are required to swear to the observance of their respective statutes; which observance is become in some cases unlawful, in others impracticable, in others useless, in others inconvenient.

Unlawful directions are countermanded by the authority which made them unlawful.

Impracticable directions are dispensed with by the necessity of the case.

The only question is, how far the mem-

bers of these societies may take upon themselves to judge of the *inconveniency* of any particular direction, and make that a reason for laying aside the observation of it.

The *animus imponentis*, which is the measure of the juror's duty, seems to be satisfied, when nothing is omitted, but what, from some change in the circumstances under which it was prescribed, it may fairly be presumed that the founder himself would have dispensed with.

To bring a case within this rule, the *inconveniency* must,—

1. Be manifest; concerning which there is no doubt.

2. It must arise from some change in the circumstances of the institution: for, let the inconveniency be what it will, if it existed at the time of the foundation, it must be presumed that the founder did not deem the avoiding of it of sufficient importance to alter his plan.

3. The direction of the statute must not only be inconvenient in the general (for so may the institution itself be), but prejudicial to the particular end proposed by the institution: for, it is this last circumstance which proves that the founder would have

dispensed with it in pursuance of his own purpose.

The statutes of some colleges forbid the speaking of any language but Latin, within the walls of the college; direct that a certain number, and not fewer than that number, be allowed the use of an apartment amongst them; that so many hours of each day be employed in public exercises, lectures, or disputations; and some other articles of discipline adapted to the tender years of the students who in former times resorted to universities. Were colleges to retain such rules, nobody now-a-days would come near them. They are laid aside, therefore, though parts of the statutes, and as such included within the oath, not merely because they are inconvenient, but because there is sufficient reason to believe, that the founders themselves would have dispensed with them, as subversive of their own designs.

CHAPTER XXII.

SUBSCRIPTION TO ARTICLES OF RELIGION.

SUBSCRIPTION to articles of religion, though no more than a *declaration* of the subscriber's assent, may properly enough be considered in connexion with the subject of oaths, because it is governed by the same rule of interpretation:

Which rule is the *animus imponentis*.

The inquiry, therefore, concerning subscription will be, *quis imposuit, et quo animo?*

The bishop who receives the subscription, is not the imposer, any more than the crier of a court, who administers the oath to the jury and witnesses, is the person that imposes it; nor, consequently, is the private opinion or interpretation of the bishop of any signification to the subscriber, one way or other.

The compilers of the Thirty-nine Articles are not to be considered as the imposers of subscription, any more than the framer or drawer up of a law is the person that enacts it.

The legislature of the 13th Eliz. is the imposer, whose intention the subscriber is bound to satisfy.

They who contend, that nothing less can justify subscription to the Thirty-nine Articles, than the actual belief of each and every separate proposition contained in them, must suppose, that the legislature expected the consent of ten thousand men, and that in perpetual succession,—not to one controverted proposition, but to many hundreds. It is difficult to conceive how this could be expected by any, who observed the incurable diversity of human opinion upon all subjects short of demonstration.

If the authors of the law did not intend this, what did they intend?

They intended to exclude from offices in the church,

1. All abettors of popery:

2. Anabaptists; who were at that time a powerful party on the Continent:

3. The Puritans; who were hostile to an episcopal constitution; and in general the members of such leading sects or foreign establishments as threatened to overthrow our own.

Whoever finds himself comprehended

within these descriptions, ought not to subscribe. Nor can a subscriber to the Articles, take advantage of any latitude which our rule may seem to allow, who is not first convinced that he is truly and substantially satisfying the intention of the legislature.

During the present state of ecclesiastical patronage, in which private individuals are permitted to impose teachers upon parishes, with which they are often little or not at all connected, some limitation of the patron's choice may be necessary to prevent unedifying contentions between neighbouring teachers, or between the teachers and their respective congregations. But this danger, if it exist, may be provided against with equal effect, by converting the articles of faith into articles of peace.

CHAPTER XXIII.

WILLS.

The fundamental question upon this subject is, whether Wills are of natural or of adventitious right? that is, whether the right of directing the disposition of property

after his death belongs to a man in a state of nature, and by the law of nature, or whether it be given him entirely by the positive regulations of the country he lives in?

The immediate produce of each man's personal labour, as the tools, weapons, and utensils, which he manufactures, the tent or hut that he builds, and perhaps the flocks and herds which he breeds and rears, are as much his own as the labour was which he employed upon them, that is, are his property naturally and absolutely; and consequently he may give or leave them to whom he pleases, there being nothing to limit the continuance of his right, or to restrain the alienation of it.

But every other species of property, especially property in land, stands upon a different foundation.

We have seen, in the Chapter upon Property, that, in a state of nature, a man's right to a particular spot of ground arises from his using it, and his wanting it; consequently ceases with the use and want: so that at his death the estate reverts to the community, without any regard to the last owner's will, or even any preference of his family, further than as they become the first

occupiers after him, and succeed to the same want and use.

Moreover, as natural rights cannot, like rights created by act of parliament, expire at the end of a certain number of years, if the testator have a right, by the law of nature, to dispose of his property one moment after his death, he has the same right to direct the disposition of it, for a million of ages after him; which is absurd.

The ancient apprehensions of mankind upon the subject were conformable to this account of it: for, wills have been introduced into most countries by a positive act of the state; as by the Laws of Solon into Greece; by the Twelve Tables into Rome; and that not till after a considerable progress had been made in legislation, and in the œconomy of civil life. Tacitus relates, that amongst the Germans they were disallowed; and what is more remarkable, in this country, since the Conquest, lands could not be devised by will, till within little more than two hundred years ago, when this privilege was restored to the subject by an act of parliament, in the latter end of the reign of Henry the Eighth.

No doubt, many beneficial purposes are

attained by extending the owner's power over his property beyond his life, and beyond his natural right. It invites to industry; it encourages marriage; it secures the dutifulness and dependency of children: but a limit must be assigned to the duration of this power. The utmost extent to which, in any case, entails are allowed by the laws of England to operate, is during the lives in existence at the death of the testator, and one-and-twenty years beyond these; after which, there are ways and means of setting them aside.

From the consideration that wills are the creatures of the municipal law which gives them their efficacy, may be deduced a determination of the question, whether the intention of the testator in an *informal* will be binding upon the conscience of those, who, by operation of law, succeed to his estate. By an *informal* will, I mean a will void in law; for want of some requisite formality, though no doubt be entertained of its meaning or authenticity: as, suppose a man make his will, devising his freehold estate to his sister's son, and the will be attested by two only, instead of three, subscribing witnesses; would the brother's son

who is heir at law to the testator, be bound in conscience to resign his claim to the estate, out of deference to his uncle's intention? or, on the contrary, would not the devisee under the will be bound, upon discovery of this flaw in it, to surrender the estate, suppose he had gained possession of it, to the heir at law?

Generally speaking, the heir at law is not bound by the intention of the testator: for, the intention can signify nothing, unless the person intending have a right to govern the descent of the estate. That is the first question. Now this right the testator can only derive from the law of the land: but the law confers the right upon certain conditions, with which conditions he has not complied: therefore, the testator can lay no claim to the power which he pretends to exercise, as he hath not entitled himself to the benefit of that law, by virtue of which alone the estate ought to attend his disposal. Consequently, the devisee under the will, who, by concealing this flaw in it, keeps possession of the estate, is in the situation of any other person, who avails himself of his neighbour's ignorance to detain from him his property. The will is so much

waste paper, from the defect of right in the person who made it. Nor is this catching at an expression of law to pervert the substantial design of it: for I apprehend it to be the deliberate mind of the legislature, that no will should take effect upon real estates, unless authenticated in the precise manner which the statute describes. Had testamentary dispositions been founded in any natural right, independent of positive constitutions, I should have thought differently of this question: for then I should have considered the law rather as refusing its assistance to enforce the right of the devisee, than as extinguishing or working any alteration in the right itself.

And after all, I should choose to propose a case, where no consideration of pity to distress, of duty to a parent, or of gratitude to a benefactor, interfered with the general rule of justice.

The regard due to kindred in the disposal of our fortune (except the case of lineal kindred, which is different) arises either from the respect we owe to the presumed intention of the ancestor from whom we received our fortunes, or from the expectations which we have encouraged. The in-

tention of the ancestor is presumed with greater certainty, as well as entitled to more respect, the fewer degrees he is removed from us; which makes the difference in the different degrees of kindred. For instance, it may be presumed to be a father's intention and desire, that the inheritance which he leaves, after it has served the turn and generation of one son, should remain a provision for the families of his other children, equally related and dear to him as the oldest. Whoever, therefore, without cause, gives away his patrimony from his brother's or sister's family, is guilty not so much of an injury to them, as of ingratitude to his parent. The deference due from the possessor of a fortune to the presumed desire of his ancestor, will also vary with this circumstance, whether the ancestor earned the fortune by his personal industry, acquired it by accidental successes, or only transmitted the inheritance which he received.

Where a man's fortune is acquired by himself, and he has done nothing to excite expectation, but rather has refrained from those particular attentions which tend to cherish expectation, he is perfectly disen-

gaged from the force of the above reasons, and at liberty to leave his fortune to his friends, to charitable or public purposes, or to whom he will; the same blood, proximity of blood, and the like, are merely modes of speech, implying nothing real, nor any obligation of themselves.

There is always, however, a reason for providing for our poor relations, in preference to others who may be equally necessitous, which is, that if we do not, no one else will; mankind, by an established consent, leaving the reduced branches of good families to the bounty of their wealthy alliances.

The not making a will, is a very culpable omission, where it is attended with the following effects: where it leaves daughters, or younger children, at the mercy of the oldest son; where it distributes a personal fortune equally amongst the children, although there be no equality in their exigencies or situations; where it leaves an opening for litigation; or lastly, and principally, where it defrauds creditors: for, by a defect in our laws, which has been long and strangely overlooked, real estates are

not subject to the payment of debts by simple contract, unless made so by will; although credit is, in fact, generally given to the possession of such estates: he, therefore, who neglects to make the necessary appointments for the payment of his debts, as far as his effects extend, sins, as it has been justly said, in his grave; and if he omits this on purpose to defeat the demands of his creditors, he dies with a deliberate fraud in his heart.

Anciently, when any one died without a will, the bishop of the diocese took possession of his personal fortune, in order to dispose of it for the benefit of his soul, that is, to pious or charitable uses. It became necessary, therefore, that the bishop should be satisfied of the authenticity of the will, when there was any, before he resigned the right which he had to take possession of the dead man's fortune in case of intestacy. In this way wills, and controversies relating to wills, came within the cognisance of ecclesiastical courts; under the jurisdiction of which, wills of personals (the only wills that were made formerly) still continue, though in truth, no more now-a-days connected

with religion, than any other instruments of conveyance. This is a peculiarity in the English law.

Succession to *intestates* must be regulated by positive rules of law, there being no principle of natural justice whereby to ascertain the proportion of the different claimants: not to mention that the claim itself, especially of collateral kindred, seems to have little foundation in the law of nature.

These regulations should be guided by the duty and presumed inclination of the deceased, so far as these considerations can be consulted by general rules. The statutes of Charles the Second, commonly called the Statutes of Distribution, which adopt the rule of the Roman law in the distribution of personals, are sufficiently equitable. They assign one-third to the widow, and two-thirds to the children; in case of no children, one half to the widow, and the other half to the next of kin; where neither widow nor lineal descendants survive, the whole to the next of kin, and to be equally divided amongst kindred of equal degree, without distinction of whole blood and half blood, or of consanguinity by the father's or mother's side.

The descent of real estates, of houses, that is, and land, having been settled in more remote and in ruder times, is less reasonable. There never can be much to complain of in a rule which every person may avoid, by so easy a provision as that of making his will: otherwise, our law in this respect is chargeable with some flagrant absurdities; such as, that an estate shall in no wise go to the brother or sister of the half blood, though it came to the deceased from the common parent; that it shall go to the remotest relation the intestate has in the world, rather than to his own father or mother; or even be forfeited for want of an heir, though both parents survive; that the most distant paternal relation shall be preferred to an uncle, or own cousin, by the mother's side, notwithstanding the estate was purchased and acquired by the intestate himself.

Land not being so divisible as money, may be a reason for making a difference in the course of inheritance: but there ought to be no difference but what is founded upon that reason. The Roman law made none.

MORAL PHILOSOPHY.

BOOK III.

PART II.

OF RELATIVE DUTIES WHICH ARE INDETERMINATE.

CHAPTER I.

CHARITY.

I USE the term Charity neither in the common sense of bounty to the poor, nor in St. Paul's sense of benevolence to all mankind; but I apply it at present, in a sense more commodious to my purpose, to signify *the promoting the happiness of our inferiors.*

Charity, in this sense, I take to be the principal province of virtue and religion: for, whilst worldly prudence will direct our behaviour towards our superiors, and po-

liteness towards our equals, there is little beside the consideration of duty, or an habitual humanity which comes into the place of consideration, to produce a proper conduct towards those who are beneath us, and dependent upon us.

There are three principal methods of promoting the happiness of our inferiors.

1. By the treatment of our domestics and dependants.
2. By professional assistance.
3. By pecuniary bounty.

CHAPTER II.

CHARITY.

THE TREATMENT OF OUR DOMESTICS AND DEPENDENTS.

A PARTY of friends setting out together upon a journey, soon find it to be the best for all sides, that while they are upon the road, one of the company should wait upon the rest; another ride forward to seek out lodging and entertainment; a third carry the portmanteau; a fourth take charge of the horses; a fifth bear the purse, con-

duct and direct the route; not forgetting, however, that, as they were equal and independent when they set out, so they are all to return to a level again at their journey's end. The same regard and respect; the same forbearance, lenity, and reserve in using their service; the same mildness in delivering commands; the same study to make their journey comfortable and pleasant, which he whose lot it was to direct the rest, would in common decency think himself bound to observe towards them, ought we to show to those, who, in the casting of the parts of human society, happen to be placed within our power, or to depend upon us.

Another reflection of a like tendency with the former is, that our obligation to them is much greater than theirs to us. It is a mistake to suppose, that the rich man maintains his servants, tradesmen, tenants, and labourers: the truth is, they maintain him. It is their industry which supplies his table, furnishes his wardrobe, builds his houses, adorns his equipage, provides his amusements. It is not the estate, but the labour employed upon it, that pays his rent. All that he does, is to distribute

what others produce; which is the least part of the business.

Nor do I perceive any foundation for an opinion, which is often handed round in genteel company, that good usage is thrown away upon low and ordinary minds; that they are insensible of kindness, and incapable of gratitude. If by "low and ordi-" nary minds" are meant the minds of men in low and ordinary stations, they seem to be affected by benefits in the same way that all others are, and to be no less ready to requite them: and it would be a very unaccountable law of nature if it were otherwise.

Whatever uneasiness we occasion to our domestics, which neither promotes our service, nor answers the just ends of punishment, is manifestly wrong; were it only upon the general principle of diminishing the sum of human happiness.

By which rule we are forbidden,

1. To enjoin unnecessary labour or confinement from the mere love and wantonness of domination;

2. To insult our servants by harsh, scornful, or opprobrious language;

3. To refuse them any harmless pleasures;

And, by the same principle, are also forbidden causeless or immoderate anger, habitual peevishness, and groundless suspicion.

CHAPTER III.

SLAVERY.

The prohibitions of the last chapter extend to the treatment of slaves, being founded upon a principle independent of the contract between masters and servants.

I define slavery to be "an obligation to "labour for the benefit of the master without the contract or consent of the servant."

This obligation may arise, consistently with the law of nature, from three causes:

1. From crimes.
2. From captivity.
3. From debt.

In the first case, the continuance of the slavery, as of any other punishment, ought to be proportioned to the crime; in the second and third cases, it ought to cease, as soon as the demand of the injured nation, or private creditor, is satisfied.

The slave-trade upon the coast of Africa is not excused by these principles. When slaves in that country are brought to market, no questions, I believe, are asked about the origin or justice of the vender's title. It may be presumed therefore, that this title is not always, if it be ever, founded in any of the causes above assigned.

But defect of right in the first purchase is the least crime with which this traffic is chargeable. The natives are excited to war and mutual depredation, for the sake of supplying their contracts, or furnishing the market with slaves. With this the wickedness begins. The slaves, torn away from parents, wives, children, from their friends and companions, their fields and flocks, their home and country, are transported to the European settlements in America, with no other accommodation on shipboard than what is provided for brutes. This is the second stage of cruelty; from which the miserable exiles are delivered, only to be placed, and that for life, in subjection to a dominion and system of laws, the most merciless and tyrannical that ever were tolerated upon the face of the earth; and from all that can be learned by the accounts

of the people upon the spot, the inordinate authority which the plantation laws confer upon the slaveholder is exercised, by the *English* slaveholder, especially, with rigour and brutality.

But *necessity* is pretended; the name under which every enormity is attempted to be justified. And, after all, what is the necessity? It has never been proved that the land could not be cultivated there, as it is here, by hired servants. It is said that it could not be cultivated with quite the same conveniency and cheapness, as by the labour of slaves: by which means, a pound of sugar, which the planter now sells for sixpence, could not be afforded under sixpence-halfpenny;—and this is the *necessity*.

The great revolution which has taken place in the Western world, may probably conduce (and who knows but that it was designed?) to accelerate the fall of this abominable tyranny: and now that this contest, and the passions which attend it, are no more, there may succeed perhaps a season for reflecting, whether a legislature which had so long lent its assistance to the support of an institution replete with hu-

man misery, was fit to be trusted with an empire the most extensive that ever obtained in any age or quarter of the world.

Slavery was a part of the civil constitution of most countries, when Christianity appeared; yet no passage is to be found in the Christian Scriptures, by which it is condemned or prohibited. This is true: for Christianity, soliciting admission into all nations of the world, abstained, as behoved it, from intermeddling with the civil institutions of any. But does it follow, from the silence of Scripture concerning them, that all the civil institutions which then prevailed were right? or that the bad should not be exchanged for better?

Besides this, the discharging of slaves from all obligation to obey their masters, which is the consequence of pronouncing slavery to be unlawful, would have had no better effect, than to let loose one half of mankind upon the other. Slaves would have been tempted to embrace a religion, which asserted their right to freedom; masters would hardly have been persuaded to consent to claims founded upon such authority; the most calamitous of all con-

tests, a *bellum servile*, might probably have ensued, to the reproach, if not the extinction of the Christian name.

The truth is, the emancipation of slaves should be gradual, and be carried on by provisions of law, and under the protection of civil government. Christianity can only operate as an alterative. By the mild diffusion of its light and influence, the minds of men are insensibly prepared to perceive and correct the enormities, which folly, or wickedness, or accident, have introduced into their public establishments. In this way the Greek and Roman slavery, and since these, the feudal tyranny, has declined before it. And we trust that, as the knowledge and authority of the same religion advance in the world, they will banish what remains of this odious institution.

CHAPTER IV.

CHARITY.

PROFESSIONAL ASSISTANCE.

THIS kind of beneficence is chiefly to be expected from members of the legislature, magistrates, medical, legal, and sacerdotal professions.

1. The care of the poor ought to be the principal object of all laws; for this plain reason, that the rich are able to take care of themselves.

Much has been, and more might be done, by the laws of this country, towards the relief of the impotent, and the protection and encouragement of the industrious poor. Whoever applies himself to collect observations upon the state and operation of the poor-laws, and to contrive remedies for the imperfections and abuses which he observes, and digests these remedies into acts of parliament, and conducts them, by argument or influence, through the two branches of the legislature, or communicates his ideas to those who are more likely to carry them into effect, deserves well of a

class of the community so numerous, that their happiness forms a principal part of the whole. The study and activity thus employed, is charity, in the most meritorious sense of the word.

2. The application of parochial relief is intrusted, in the first instance, to overseers and contractors, who have an interest in opposition to that of the poor, inasmuch as whatever they allow them comes in part out of their own pocket. For this reason, the law has deposited with justices of the peace a power of superintendence and control: and the judicious interposition of this power is a most useful exertion of charity, and oft-times within the ability of those who have no other way of serving their generation. A country gentleman of very moderate education, and who has little to spare from his fortune, by learning so much of the poor-law as is to be found in Dr. Burn's Justice, and by furnishing himself with a knowledge of the prices of labour and provision, so as to be able to estimate the exigencies of a family, and what is to be expected from their industry, may, in this way, place out the one talent committed to him, to great account.

3. Of all private professions, that of medicine puts it in a man's power to do the most good at the least expense. Health, which is precious to all, is to the poor invaluable; and their complaints, as agues, rheumatisms, &c. are often such as yield to medicine. And, with respect to the expense, drugs at first hand cost little, and advice costs nothing, where it is only bestowed upon those who could not afford to pay for it.

4. The rights of the poor are not so important or intricate, as their contentions are violent and ruinous. A lawyer or attorney, of tolerable knowledge in his profession, has commonly judgement enough to adjust these disputes, with all the effect, and without the expense of a law-suit; and he may be said to *give* a poor man twenty pounds, who prevents his throwing it away upon law. A *legal* man whether of the profession or not, who, together with a spirit of conciliation, possesses the confidence of his neighbourhood, will be much resorted to for this purpose, especially since the great increase of costs has produced a general dread of going to law.

Nor is this line of beneficence confined

to *arbitration*. Seasonable counsel, coming with the weight which the reputation of the adviser gives it, will often keep or extricate the rash and uninformed out of great difficulties.

Lastly, I know not a more exalted charity than that which presents a shield against the rapacity or persecution of a tyrant.

5. Betwixt argument and authority (I mean that authority which flows from voluntary respect, and attends upon sanctity and disinterestedness of character) something may be done, amongst the lower orders of mankind, towards the regulation of their conduct, and the satisfaction of their thoughts. This office belongs to the ministers of religion; or rather, whoever undertakes it, becomes a minister of religion. The inferior clergy, who are nearly upon a level with the common sort of their parishioners, and who on that account gain an easier admission to their society and confidence, have in this respect more in their power than their superiors: the discreet use of this power constitutes one of the most respectable functions of human nature.

CHAPTER V.

CHARITY.

PECUNIARY BOUNTY.

I. *The obligation to bestow relief upon the poor.*

II. *The manner of bestowing it.*

III. *The pretences by which men excuse themselves from it.*

I. *The obligation to bestow relief upon the poor.*

THEY who rank pity amongst the original impulses of our nature, rightly contend, that, when this principle prompts us to the relief of human misery, it indicates the Divine intention, and our duty. Indeed, the same conclusion is deducible from the existence of the passion, whatever account be given of its origin. Whether it be an instinct or a habit, it is in fact a property of our nature, which God appointed; and the final cause for which it was appointed, is to afford to the miserable, in the compas-

sion of their fellow-creatures, a remedy for those inequalities and distresses which God foresaw that many must be exposed to under every general rule for the distribution of property.

Beside this, the poor have a claim founded in the law of nature, which may be thus explained:—All things were originally common. No one being able to produce a charter from Heaven, had any better title to a particular possession than his next neighbour. There were reasons for mankind's agreeing upon a separation of this common fund; and God for these reasons is presumed to have ratified it. But this separation was made and consented to, upon the expectation and condition that every one should have left a sufficiency for his subsistence, or the means of procuring it: and as no fixed laws for the regulation of property can be so contrived, as to provide for the relief of every case and distress which may arise, these cases and distresses, when their right and share in the common stock were given up or taken from them, were supposed to be left to the voluntary bounty of those who might be acquainted with the exigencies of their situation, and in the

way of affording assistance. And, therefore, when the partition of property is rigidly maintained against the claims of indigence and distress, it is maintained in opposition to the intention of those who made it, and to *his*, who is the Supreme Proprietor of every thing, and who has filled the world with plenteousness, for the sustentation and comfort of all whom he sends into it.

The Christian Scriptures are more copious and explicit upon this duty than upon almost any other. The description which Christ hath left us of the proceedings of the last day, establishes the obligation of bounty beyond controversy:—"When the "Son of man shall come in his glory, "and all the holy angels with him, then "shall he sit upon the throne of his glory, "and before him shall be gathered all na- "tions; and he shall separate them one "from another.—Then shall the King say "unto them on his right hand, Come, ye "blessed of my Father, inherit the king- "dom prepared for you from the founda- "tion of the world: For I was an hun- "gered, and ye gave me meat: I was "thirsty, and ye gave me drink: I was a

" stranger, and ye took me in: naked, and " ye clothed me: I was sick, and ye visit- " ed me: I was in prison, and ye came " unto me.—And inasmuch as ye have done " it to one of the least of these my bre- " thren, ye have done it unto me*." It is not necessary to understand this passage as a literal account of what will actually pass on that day. Supposing it only a scenical description of the rules and principles, by which the Supreme Arbiter of our destiny will regulate his decisions, it conveys the same lesson to us; it equally demonstrates of how great value and importance these duties in the sight of God are, and what stress will be laid upon them. The apostles also describe this virtue as propitiating the Divine favour in an eminent degree. And these recommendations have produced their effect. It does not appear that, before the times of Christianity, an infirmary, hospital, or public charity of any kind, existed in the world; whereas most countries in Christendom have long abounded with these institutions. To which may be added, that a spirit of private li-

* Matthew, xxv. 31.

berality seems to flourish amidst the decay of many other virtues; not to mention the legal provision for the poor, which obtains in this country, and which was unknown and unthought of by the most humanised nations of antiquity.

St. Paul adds upon the subject an excellent direction, and which is practicable by all who have any thing to give:—"Upon "the first day of the week (or any other "stated time) let every one of you lay by "in store, as God hath prospered him." By which I understand St. Paul to recommend what is the very thing wanting with most men, *the being charitable upon a plan*; that is, upon a deliberate comparison of our fortunes with the reasonable expenses and expectation of our families, to compute what we can spare, and to lay by so much for charitable purposes in some mode or other. The *mode* will be a consideration afterwards.

The effect which Christianity produced upon some of its first converts, was such as might be looked for from a divine religion, coming with full force and miraculous evidence upon the consciences of mankind. It overwhelmed all worldly considerations

in the expectation of a more important existence:—"And the multitude of them that "believed, were of one heart and of one "soul; neither said any of them that aught "of the things which he possessed was his "own; but they had all things in common.—Neither was there any among "them that lacked; for as many as were "possessors of lands or houses, sold them, "and brought the prices of the things that "were sold, and laid them down at the "apostles' feet; and distribution was "made unto every man according as he "had need." Acts, iv. 32.

Nevertheless, this community of goods, however it manifested the sincere zeal of the primitive Christians, is no precedent for our imitation. It was confined to the Church at Jerusalem; continued not long there; was never enjoined upon any (Acts, v. 4.); and, although it might suit with the particular circumstances of a small and select society, is altogether impracticable in a large and mixed community.

The conduct of the apostles upon the occasion, deserves to be noticed. Their followers laid down their fortunes at their feet: but so far were they from taking advantage

of this unlimited confidence, to enrich themselves, or to establish their own authority, that they soon after got rid of this business, as inconsistent with the main object of their mission, and transferred the custody and management of the public fund to deacons elected to that office by the people at large. (Acts, vi.)

II. *The manner of bestowing bounty; or the different kinds of charity.*

Every question between the different kinds of charity, supposes the sum bestowed to be the same.

There are three kinds of charity which prefer a claim to attention.

The first, and in my judgement one of the best, is to give stated and considerable sums, by way of pension or annuity, to individuals or families, with whose behaviour and distress we ourselves are acquainted. When I speak of *considerable* sums, I mean only that five pounds, or any other sum, given at once, or divided amongst five or fewer families, will do more good than the same sum distributed amongst a greater number in shillings or half-crowns; and that, because it is more likely to be properly applied by the persons

who receive it. A poor fellow, who can find no better use for a shilling than to drink his benefactor's health, and purchase half an hour's recreation for himself, would hardly break into a guinea for any such purpose, or be so improvident, as not to lay it by for an occasion of importance, *e. g.* for his rent, his clothing, fuel, or stock of winter's provision. It is a still greater recommendation of this kind of charity, that pensions and annuities, which are paid regularly, and can be expected at the time, are the only way by which we can prevent one part of a poor man's sufferings,—the *dread* of want.

2. But as this kind of charity supposes that proper objects of such expensive benefactions fall within our private knowledge and observation, which does not happen to all, a second method of doing good, which is in every one's power who has the money to spare, is by subscription to public charities. Public charities admit of this argument in their favour, that your money goes farther towards attaining the end for which it is given, than it can do by any private and separate beneficence. A guinea, for example, contributed to an infirmary, be-

comes the means of providing one patient at least with a physician, surgeon, apothecary, with medicine, diet, lodging, and suitable attendance; which is not the tenth part of what the same assistance, if it could be procured at all, would cost to a sick person or family in any other situation.

3. The last, and, compared with the former, the lowest exertion of benevolence, is in the relief of beggars. Nevertheless, I by no means approve the indiscriminate rejection of all who implore our alms in this way. Some may perish by such a conduct. Men are sometimes overtaken by distress, for which all other relief would come too late. Beside which, resolutions of this kind compel us to offer such violence to our humanity, as may go near, in a little while, to suffocate the principle itself; which is a very serious consideration. A good man, if he do not surrender himself to his feelings without reserve, will at least lend an ear to importunities, which come accompanied with outward attestations of distress; and after a patient audience of the complaint, will direct himself, not so much by any previous resolution which he may have formed upon the subject, as by the circumstances

and credibility of the account that he receives.

There are other species of charity well contrived to make the money expended *go far:* such as keeping down the price of fuel or provision, in case of monopoly or temporary scarcity, by purchasing the articles at the best market, and retailing them at prime cost, or at a small loss; or the adding of a bounty to particular species of labour, when the price is accidentally depressed.

The proprietors of large estates have it in their power to facilitate the maintenance, and thereby to encourage the establishment of families (which is one of the noblest purposes to which the rich and great can convert their endeavours), by building cottages, splitting farms, erecting manufactures, cultivating wastes, embanking the sea, draining marshes, and other expedients, which the situation of each estate points out. If the profits of these undertakings do not repay the expense, let the authors of them place the difference to the account of charity. It is true of almost all such projects, that the public is a gainer by them, whatever the owner be. And where

the loss can be spared, this consideration is sufficient.

It is become a question of some importance, under what circumstances works of charity ought to be done in private, and when they may be made public without detracting from the merit of the action, if indeed they ever may; the Author of our religion having delivered a rule upon this subject which seems to enjoin universal secrecy:—"When thou doest alms, let not "thy left hand know what thy right hand "doeth; that thy alms may be in secret, "and thy Father which seeth in secret, himself shall reward thee openly." (Matt. vi. 3, 4.) From the preamble to this prohibition I think it, however, plain, that our Saviour's sole design was to forbid *ostentation*, and all publishing of good works which proceeds from that motive. "Take heed that ye "do not your alms before men, *to be seen* "*of them*; otherwise ye have no reward of "your Father, which is in heaven: there"fore, when thou doest thine alms, do not "sound a trumpet before thee, as the hy"pocrites do, in the synagogues and in the "streets, *that they may have glory of men.* "Verily I say unto thee, they have their

" reward."—ver. 2. There are motives for the doing our alms in public, beside those of *ostentation*, with which therefore our Saviour's rule has no concern: such as to testify our approbation of some particular species of charity, and to recommend it to others; to take off the prejudice which the want, or, which is the same thing, the suppression of our name in the list of contributors might excite against the charity, or against ourselves. And, so long as these motives are free from any mixture of vanity, they are in no danger of invading our Saviour's prohibition; they rather seem to comply with another direction which he has left us: " Let your light so shine before " men, that they may see your good works, " and glorify your Father which is in hea- " ven." If it be necessary to propose a precise distinction upon the subject, I can think of none better than the following: When our bounty is *beyond* our fortune and station, that is, when it is more than could be expected from us, our charity should be private, if privacy be practicable: when it is not more than might be expected, it may be public: for we cannot hope to influence others to the imitation of *extraordinary* ge-

nerosity, and therefore want, in the former case, the only justifiable reason for making it public.

Having thus described several different exertions of charity, it may not be improper to take notice of a species of liberality, which is not *charity*,' in any sense of the word: I mean the giving of entertainments or liquor, for the sake of popularity; or the rewarding, treating, and maintaining, the companions of our diversions, as hunters, shooters, fishers, and the like. I do not say that this is criminal; I only say that it is not charity; and that we are not to suppose, because we *give*, and give to the *poor*, that it will stand in the place, or supersede the obligation, of more meritorious and disinterested bounty.

III. *The pretences by which men excuse themselves from giving to the poor.*

1. "That they have nothing to spare," *i. e.* nothing for which they have not provided some other use; nothing which their plan or expense, together with the savings they have resolved to lay by, will not exhaust: never reflecting whether it be in their *power*, or that it is their *duty* to retrench their expenses, and contract their

plan, " that they may have to give to them " that need :" or, rather, that this ought to have been part of their plan originally.

2. " That they have families of their own, " and that charity begins at home." The extent of this plea will be considered, when we come to explain the duty of parents.

3. " That charity does not consist in " giving money, but in benevolence, phi- " lanthropy, love to all mankind, goodness " of heart," &c. Hear St. James : " If a " brother or sister be naked, and destitute " of daily food, and one of you say unto " them, Depart in peace ; be ye warmed " and filled ; notwithstanding *ye give them* " *not those things which are needful to the* " *body :* what do thit profit?" (James, ii. 15, 16.)

4. " That giving to the poor is not men- " tioned in St. Paul's description of charity, " in the thirteenth chapter of his First " Epistle to the Corinthians." This is not a description of charity, but of good-nature ; and it is not necessary that every duty be mentioned in every place.

5. " That they pay the poor-rates." They might as well allege that they pay their debts : for, the poor have the same right to

that portion of a man's property which the laws assign to them, that the man himself has to the remainder.

6. "That they employ many poor per-"sons:"—for their own sake, not the poors';—otherwise it is a good plea.

7. "That the poor do not suffer so much "as we imagine; that education and habit "have reconciled them to the evils of their "condition, and make them easy under it." Habit can never reconcile human nature to the extremities of cold, hunger, and thirst, any more than it can reconcile the hand to the touch of a red-hot iron: besides, the question is not, how unhappy any one is, but how much more happy we can make him.

8. "That these people, give them what "you will, will never thank you, or think "of you for it." In the first place, this is not true: in the second place, it was not for the sake of their thanks that you relieved them.

9. "That we are liable to be imposed "upon." If a due inquiry be made, our merit is the same: beside that, the distress is generally real, although the cause be untruly stated.

10. "That they should apply to their pa-"rishes." This is not always practicable: to which we may add, that there are many requisites to a comfortable subsistence, which parish relief does not supply; and that there are some, who would suffer almost as much from receiving parish relief as by the want of it; and, lastly, that there are many modes of charity to which this answer does not relate at all.

11. "That giving money, encourages "idleness and vagrancy." This is true only of injudicious and indiscriminate generosity.

12. "That we have too many objects of "charity at home, to bestow any thing "upon strangers; or, that there are other "charities, which are more useful, or stand "in greater need." The value of this excuse depends entirely upon the *fact*, whether we actually relieve those neighbouring objects, and contribute to those other charities.

Beside all these excuses, pride, or prudery, or delicacy, or love of ease, keep one half of the world out of the way of observing what the other half suffer.

CHAPTER VI.

RESENTMENT.

RESENTMENT may be distinguished into *anger* and *revenge*.

By *anger*, I mean the pain we suffer upon the receipt of an injury or affront, with the usual effects of that pain upon ourselves.

By *revenge*, the inflicting of pain upon the person who has injured or offended us, farther than the just ends of punishment or reparation require.

Anger prompts to revenge: but it is possible to suspend the effect, when we cannot altogether quell the principle. We are bound also to endeavour to qualify and correct the principle itself. So that our duty requires two different applications of the mind; and, for that reason, anger and revenge may be considered separately.

CHAPTER VII.

ANGER.

"Be ye angry, and sin not;" therefore all anger is not sinful: I suppose, because some degree of it, and upon some occasions, is inevitable.

It becomes sinful, or contradicts, however, the rule of Scripture, when it is conceived upon slight and inadequate provocations, and when it continues long.

1. When it is conceived upon slight provocations: for, "charity suffereth long, is "not easily provoked."—"Let every man "be slow to anger." Peace, long-suffering, gentleness, meekness, are enumerated among the fruits of the Spirit, Gal. v. 22. and compose the true Christian temper, as to this article of duty.

2. When it continues long: for, "let not "the sun go down upon your wrath."

These precepts, and all reasoning indeed on the subject, suppose the passion of anger to be within our power: and this power consists not so much in any faculty we possess of appeasing our wrath at the time

(for, we are passive under the smart which an injury or affront occasions, and all we can then do, is to prevent its breaking out into action), as in so mollifying our minds by habits of just reflection, as to be less irritated by impressions of injury, and to be sooner pacified.

Reflections proper for this purpose, and which may be called the *sedatives* of anger, are the following: the possibility of mistaking the motives from which the conduct that offends us proceeded; how often *our* offences have been the effect of inadvertency, when they were construed into indications of malice; the inducement which prompted our adversary to act as he did, and how powerfully the same inducement has, at one time or other, operated upon ourselves; that he is suffering perhaps under a contrition, which he is ashamed, or wants opportunity, to confess; and how ungenerous it is to triumph by coldness or insult over a spirit already humbled in secret; that the returns of kindness are sweet, and that there is neither honour, nor virtue, nor use, in resisting them:—for, some persons think themselves bound to cherish and keep alive their indignation, when they find it

dying away of itself. We may remember that others have their passions, their prejudices, their favourite aims, their fears, their cautions, their interests, their sudden impulses, their varieties of apprehension, as well as we: we may recollect what hath sometimes passed in our minds, when we have gotten on the wrong side of a quarrel, and imagine the same to be passing in our adversary's mind now; when we became sensible of our misbehaviour, what palliations we perceived in it, and expected others to perceive; how we were affected by the kindness, and felt the superiority of a generous reception and ready forgiveness; how persecution revived our spirits with our enmity, and seemed to justify the conduct in ourselves which we before blamed. Add to this, the indecency of extravagant anger; how it renders us, whilst it lasts, the scorn and sport of all about us, of which it leaves us, when it ceases, sensible and ashamed; the inconveniences, and irretrievable misconduct into which our irascibility has sometimes betrayed us; the friendships it has lost us; the distresses and embarrassments in which we have been involved by

it; and the sore repentance which, on one account or other, it always cost us.

But the reflection calculated above all others to allay the haughtiness of temper which is ever finding out provocations, and which renders anger so impetuous, is that which the Gospel proposes; namely, that we ourselves are, or shortly shall be, suppliants for mercy and pardon at the judgement-seat of God. Imagine our secret sins disclosed and brought to light; imagine us thus humbled and exposed; trembling under the hand of God; casting ourselves on his compassion; crying out for mercy; imagine such a creature to talk of satisfaction and revenge; refusing to be entreated, disdaining to forgive; extreme to mark and to resent what is done amiss:—imagine, I say, this, and you can hardly frame to yourself an instance of more impious and unnatural arrogance.

The point is, to habituate ourselves to these reflections, till they rise up of their own accord when they are wanted, that is, instantly upon the receipt of an injury or affront, and with such force and colouring, as both to mitigate the paroxysms of our

anger at the time, and at length to produce an alteration in the temper and disposition itself.

CHAPTER VIII.

REVENGE.

ALL pain occasioned to another in consequence of an offence or injury received from him, further than what is calculated to procure reparation, or promote the just ends of punishment, is so much revenge.

There can be no difficulty in knowing when we occasion pain to another; nor much in distinguishing whether we do so, with a view only to the ends of punishment, or from revenge: for, in the one case we proceed with reluctance, in the other with pleasure.

It is highly *probable* from the light of nature, that a passion, which seeks its gratification immediately and expressly in giving pain, is disagreeable to the benevolent will and counsels of the Creator. Other passions and pleasures may, and often do, produce pain to some one: but then pain

is not, as it is here, the object of the passion, and the direct cause of the pleasure. This *probability* is converted into certainty, if we give credit to the Authority which dictated the several passages of the Christian Scriptures that condemn revenge, or, what is the same thing, which enjoin forgiveness.

We will set down the principal of these passages; and endeavour to collect from them, what conduct upon the whole is allowed towards an enemy, and what is forbidden.

"If ye forgive men their trespasses, your "heavenly Father will also forgive you: "but if ye forgive not men their trespasses, "neither will your Father forgive your "trespasses."—"And his lord was wroth, "and delivered him to the tormentors, till "he should pay all that was due unto him: "so likewise shall my heavenly Father do "also unto you, if ye from your hearts for-"give not every one his brother their tres-"passes."—"Put on bowels of mercy, "kindness, humbleness of mind, meekness, "long-suffering; forbearing one another, "forgiving one another, if any man have a "quarrel against any: even as Christ for-"gave you, so also do ye."—"Be patient

" towards all men; see that none render " evil for evil to any man."—" Avenge not " yourselves, but rather give place unto " wrath: for it is written, Vengeance is " mine; I will repay, saith the Lord. " Therefore, if thine enemy hunger, feed " him; if he thirst, give him drink: for, in " so doing thou shalt heap coals of fire on " his head. Be not overcome of evil, but " overcome evil with good*."

I think it evident, from some of these passages taken separately, and still more so from all of them together, that *revenge*, as described in the beginning of this chapter, is forbidden in every degree, under all forms, and upon every occasion. We are likewise forbidden to refuse to an enemy even the most imperfect right; " if he hunger, feed " him; if he thirst, give him drink†;" which are examples of imperfect rights. If one who has offended us, solicit from us a vote to which his qualifications entitle him, we

* Matt. vi. 14, 15; xviii. 34, 35. Col. iii. 12, 13. 1 Thess. v. 14, 15. Rom. xii. 19, 20, 21.

† See also Exodus, xxiii. 4. " If thou meet thine " enemy's ox, or his ass, going astray, thou shalt surely " bring it back to him again: if thou see the ass of him " that hateth thee, lying under his burden, and wouldest " forbear to help him, thou shalt surely help with him."

may not refuse it from motives of resentment, or the remembrance of what we have suffered at his hands. His right and our obligation which follows the right, are not altered by his enmity to us, or by ours to him.

On the other hand, I do not conceive that these prohibitions were intended to interfere with the punishment or prosecution of public offenders. In the eighteenth chapter of St. Matthew, our Saviour tells his disciples; "If thy brother who has tres-" passed against thee neglect to hear the " church, let him be unto thee as an hea-" then man, and a publican." Immediately after this, when St. Peter asked him, "How " oft shall my brother sin against me, and " I forgive him? till seven times?" Christ replied, " I say not unto thee until seven " times, but until seventy times seven;" that is, as often as he repeats the offence. From these two adjoining passages compared together, we are authorised to conclude that the forgiveness of an enemy is not inconsistent with the proceeding against him as a public offender; and that the discipline established in religious or civil so-

cieties, for the restraint or punishment of criminals, ought to be upholden.

If the magistrate be not tied down with these prohibitions from the execution of his office, neither is the prosecutor: for, the office of the prosecutor is as necessary as that of the magistrate.

Nor, by parity of reason, are private persons withholden from the correction of vice, when it is in their power to exercise it; provided they be assured that it is the guilt which provokes them, and not the injury; and that their motives are pure from all mixture and every particle of that spirit which delights and triumphs in the humiliation of an adversary.

Thus, it is no breach of Christian charity, to withdraw our company or civility when the same tends to discountenance any vicious practice. This is one branch of that extrajudicial discipline, which supplies the defects and the remissness of law; and is expressly authorised by St. Paul (1 Cor. v. 11.): "But now I have written unto you "not to keep company, if any man that is "called a brother be a fornicator, or co-"vetous, or an idolater, or a railer, or a

" drunkard, or an extortioner; with such " an one, no not to eat." The use of this association against vice continues to be experienced in one remarkable instance, and might be extended with good effect to others. The confederacy amongst women of character, to exclude from their society kept mistresses and prostitutes, contributes more perhaps to discourage that condition of life, and prevents greater numbers from entering into it, than all the considerations of prudence and religion put together.

We are likewise allowed to practise so much caution as not to put ourselves in the way of injury, or invite the repetition of it. If a servant or tradesman has cheated us, we are not bound to trust him again: for, this is to encourage him in his dishonest practices, which is doing him much harm.

Where a benefit can be conferred only upon one or few, and the choice of the person upon whom it is conferred is a proper object of favour, we are at liberty to prefer those who have not offended us to those who have; the contrary being no where required.

Christ, who, as hath been well demon-

strated*, estimated virtues by their solid utility, and not by their fashion or popularity, prefers this of the forgiveness of injuries to every other. He enjoins it oftener; with more earnestness; under a greater variety of forms; and with this weighty and peculiar circumstance, that the forgiveness of others is the condition upon which alone we are to expect, or even ask, from God, forgiveness for ourselves. And this preference is justified by the superior importance of the virtue itself. The feuds and animosities in families and between neighbours, which disturb the intercourse of human life, and collectively compose half the misery of it, have their foundation in the want of a forgiving temper; and can never cease, but by the exercise of this virtue, on one side, or on both.

CHAPTER IX.

DUELLING.

DUELLING as a punishment is absurd; because it is an equal chance, whether the punishment fall upon the offender, or the

* See a View of the Internal Evidence of the Christian Religion.

person offended. Nor is it much better as a reparation; it being difficult to explain in what the *satisfaction* consists, or how it tends to undo the injury, or to afford a compensation for the damage already sustained.

The truth is, it is not considered as either. A law of honour having annexed the imputation of cowardice to patience under an affront, challenges are given and accepted with no other design than to prevent or wipe off this suspicion; without malice against the adversary, generally without a wish to destroy him, or any other concern than to preserve the duellist's own reputation and reception in the world.

The unreasonableness of this rule of manners is one consideration; the duty and conduct of individuals, while such a rule exists, is another.

As to which, the proper and single question is this; whether a regard for our own reputation is, or is not, sufficient to justify the taking away the life of another?

Murder is forbidden; and wherever human life is deliberately taken away, otherwise than by public authority, there is murder. The value and security of human

life make this rule necessary; for I do not see what other idea or definition of murder can be admitted, which will not let in so much private violence, as to render society a scene of peril and bloodshed.

If unauthorised laws of honour be allowed to create exceptions to Divine prohibitions, there is an end of all morality, as founded in the will of the Deity; and the obligation of every duty may, at one time or other, be discharged by the caprice and fluctuations of fashion.

"But a sense of shame is so much tor-
"ture; and no relief presents itself other-
"wise than by an attempt upon the life of
"our adversary." What then? The distress which men suffer by the want of money is oftentimes extreme, and no resource can be discovered but that of removing a life which stands between the distressed person and his inheritance. The motive in this case is as urgent, and the means much the same, as in the former: yet this case finds no advocate.

Take away the circumstance of the duellist's exposing his own life, and it becomes assassination; add this circumstance, and what difference does it make? None but

this, that fewer perhaps will imitate the example, and human life will be somewhat more safe, when it cannot be attacked without equal danger to the aggressor's own. Experience, however, proves that there is fortitude enough in most men to undertake this hazard; and were it otherwise, the defence, at best, would be only that which a highwayman or housebreaker might plead, whose attempt had been so daring and desperate, that few were likely to repeat the same.

In expostulating with the duellist, I all along suppose his adversary to fall. Which supposition I am at liberty to make, because if he have no right to kill his adversary, he has none to attempt it.

In return, I forbear from applying to the case of duelling the Christian principle of the forgiveness of injuries; because it is possible to suppose the injury to be forgiven, and the duellist to act entirely from a concern for his own reputation: where this is not the case, the guilt of duelling is manifest, and is greater.

In this view it seems unnecessary to distinguish between him who gives, and him who accepts a challenge: for, on the one

hand, they incur an equal hazard of destroying life; and on no other, both act upon the same persuasion, that what they do is necessary, in order to recover or preserve the good opinion of the world.

Public opinion is not easily controlled by civil institutions: for which reason I question whether any regulations can be contrived, of sufficient force to suppress or change the rule of honour, which stigmatises all scruples about duelling with the reproach of cowardice.

The insufficiency of the redress which the law of the land affords, for those injuries which chiefly affect a man in his sensibility and reputation, tempts many to redress themselves. Prosecutions for such offences, by the trifling damages that are recovered, serve only to make the sufferer more ridiculous.—This ought to be remedied.

For the army, where the point of honour is cultivated with exquisite attention and refinement, I would establish *a Court of Honour*, with a power of awarding those submissions and acknowledgements, which it is generally the purpose of a challenge to obtain; and it might grow into a fashion,

with persons of rank of all professions, to refer their quarrels to this tribunal.

Duelling, as the law now stands, can seldom be overtaken by legal punishment. The challenge, appointment, and other previous circumstances, which indicate the intention with which the combatants met, being suppressed, nothing appears to a court of justice, but the actual rencounter; and if a person be slain when actually fighting with his adversary, the law deems his death nothing more than man-slaughter.

CHAPTER X.

LITIGATION.

"IF it be *possible*, live peaceably with all "men;" which precept contains an indirect confession that this is not always *possible*.

The instances* in the fifth chapter of St. Matthew are rather to be understood as proverbial methods of describing the general duties of forgiveness and benevolence,

* "Whoever shall smite thee on thy right cheek, turn "to him the other also: and if any man will sue thee at "the law, and take away thy coat, let him have thy cloak "also: and whosoever shall compel thee to go a mile, go "with him twain."

and the temper which we ought to aim at acquiring, than as directions to be specifically observed; or of themselves of any great importance to be observed. The first of these is, "If thine enemy smite thee on "thy right cheek, turn to him the other "also;" yet, when one of the officers struck Jesus with the palm of his hand, we find Jesus rebuking him for the outrage with becoming indignation; "If I have "spoken evil, bear witness of the evil; but "if well, why smitest thou me?" (John, xviii. 43.) It may be observed, likewise, that the several examples are drawn from instances of small and tolerable injuries. A rule which forbade all opposition to injury, or defence against it, could have no other effect, than to put the good in subjection to the bad, and deliver one half of mankind to the depredation of the other half; which must be the case, so long as some considered themselves as bound by such a rule, whilst others despised it. St. Paul, though no one inculcated forgiveness and forbearance with a deeper sense of the value and obligation of these virtues, did not interpret either of them to require an unresisting submission to every con-

tumely, or a neglect of the means of safety and self-defence. He took refuge in the laws of his country, and in the privileges of a Roman citizen, from the conspiracy of the Jews (Acts, xxv. 11.); and from the clandestine violence of the chief captain. (Acts, xxii. 25.) And yet this is the same apostle who reproved the litigiousness of his Corinthian converts with so much severity. "Now, therefore, there is utterly "a fault among you, because ye go to law "one with another. Why do ye not rather "take wrong? why do ye not rather suf- "fer yourselves to be defrauded?"

On the one hand, therefore, Christianity excludes all vindictive motives, and all frivolous causes of prosecution; so that where the injury is small, where no good purpose of public example is answered, where forbearance is not likely to invite a repetition of the injury, or where the expense of an action becomes a punishment too severe for the offence; there the Christian is withholden by the authority of his religion from going to law.

On the other hand, a law-suit is inconsistent with no rule of the Gospel, when it is instituted,

1. For the establishing of some important right.

2. For the procuring a compensation for some considerable damage.

3. For the preventing of future injury.

But, since it is supposed to be undertaken simply with a view to the ends of justice and safety, the prosecutor of the action is bound to confine himself to the cheapest process which will accomplish these ends, as well as to consent to any peaceable expedient for the same purpose; as to *a reference*, in which the arbitrators can do, what the law cannot, divide the damage, when the fault is mutual; or to *a compounding of the dispute*, by accepting a compensation in the gross, without entering into articles and items, which it is often very difficult to adjust separately.

As to the rest, the duty of the contending parties may be expressed in the following directions:

Not by appeals to prolong a suit against your own conviction.

Not to undertake or defend a suit against a poor adversary, or render it more dilatory or expensive than necessary, with the hope of intimidating or wearying him out by the expense.

Not to influence *evidence* by authority or expectation.

Nor to stifle any in your possession, although it make against you.

Hitherto we have treated of civil actions. In criminal prosecutions, the private injury should be forgotten, and the prosecutor proceed with the same temper, and upon the same motives, as the magistrate; the one being a necessary minister of justice as well as the other, and both bound to direct their conduct by a dispassionate care of the public welfare.

In whatever degree the punishment of an offender is conducive, or his escape dangerous, to the interest of the community, in the same degree is the party against whom the crime was committed bound to prosecute, because such prosecutions must in their nature originate from the sufferer.

Therefore great public crimes, as robberies, forgeries, and the like, ought not to be spared, from an apprehension of trouble or expense in carrying on the prosecution, from false shame, or misplaced compassion.

There are many offences, such as nuisances, neglect of public roads, forestalling, engrossing, smuggling, sabbath-breaking,

profaneness, drunkenness, prostitution, the keeping of lewd or disorderly houses, the writing, publishing, or exposing to sale lascivious books or pictures, with some others, the prosecution of which, being of equal concern to the whole neighbourhood, cannot be charged as a peculiar obligation upon any.

Nevertheless, there is great merit in the person who undertakes such prosecutions upon proper motives; which amounts to the same thing.

The character of an *informer* is in this country undeservedly odious. But where any public advantage is likely to be attained by information, or other activity in promoting the execution of the laws, a good man will despise a prejudice founded in no just reason, or will acquit himself of the imputation of interested designs by giving away his share of the penalty.

On the other hand, prosecutions for the sake of the reward, or for the gratification of private enmity, where the offence produces no public mischief, or where it arises from ignorance or inadvertency, are reprobated under the general description of *applying a rule of law to a purpose for which it*

was not intended. Under which description may be ranked an officious revival of the laws against Popish priests, and dissenting teachers.

CHAPTER XI.

GRATITUDE.

EXAMPLES of ingratitude check and discourage voluntary beneficence: and in this, the mischief of ingratitude consists. Nor is the mischief small; for after all is done that can be done, towards providing for the public happiness, by prescribing rules of justice and enforcing the observation of them by penalties or compulsion, much must be left to those offices of kindness, which men remain at liberty to exert or withhold. Now not only the choice of the objects, but the quantity and even the existence of this sort of kindness in the world depends, in a great measure, upon the return which it receives: and this is a consideration of general importance.

A second reason for cultivating a grateful temper in ourselves, is the following: The

same principle, which is touched with the kindness of a human benefactor, is capable of being affected by the Divine goodness, and of becoming, under the influence of that affection, a source of the purest and most exalted virtue. The love of God is the sublimest gratitude. It is a mistake, therefore, to imagine, that this virtue is omitted in the Christian Scriptures; for, every precept which commands us "to "love God, because he first loved us," presupposes the principle of gratitude, and directs it to its proper object.

It is impossible to particularise the several expressions of gratitude, inasmuch as they vary with the character and situation of the benefactor, and with the opportunities of the person obliged; which variety admits of no bounds.

It may be observed, however, that gratitude can never oblige a man to do what is wrong, and what by consequence he is previously obliged not to do. It is no ingratitude to refuse to do, what we cannot reconcile to any apprehensions of our duty; but it is ingratitude and hypocrisy together, to pretend this reason, when it is not the real one: and the frequency of such pre-

tences has brought this apology for non-compliance with the will of a benefactor into unmerited disgrace.

It has long been accounted a violation of delicacy and generosity to upbraid men with the favours they have received: but it argues a total destitution of both these qualities, as well as of moral probity, to take advantage of that ascendency, which the conferring of benefits justly creates, to draw or drive those whom we have obliged into mean or dishonest compliances.

CHAPTER XII.

SLANDER.

SPEAKING is acting, both in philosophical strictness, and as to all moral purposes: for, if the mischief and motive of our conduct be the same, the means which we use make no difference.

And this is in effect what our Saviour declares, Matt. xii. 37:—"By thy words thou "shalt be justified, and by thy words thou "shalt be condemned:" by thy words, as well, that is, as by thy actions; the one

shall be taken into the account as well as the other, for they both possess the same property of voluntarily producing good or evil.

Slander may be distinguished into two kinds, *malicious* slander, and *inconsiderate* slander.

Malicious slander is the relating of either truth or falsehood, for the purpose of creating misery.

I acknowledge that the truth or falsehood of what is related, varies the degree of guilt considerably; and that slander, in the ordinary acceptation of the term, signifies the circulation of mischievous *falsehoods*: but truth may be made instrumental to the success of malicious designs as well as falsehood; and if the end be bad, the means cannot be innocent.

I think the idea of slander ought to be confined to the production of *gratuitous* mischief. When we have an end or interest of our own to serve, if we attempt to compass it by falsehood, it is *fraud*; if by a publication of the truth, it is not without some additional circumstance of breach of promise, betraying of confidence, or the like, to be deemed criminal.

Sometimes the pain is intended for the

person to whom we are speaking; at other times, an enmity is to be gratified by the prejudice or disquiet of a third person. To infuse suspicions, to kindle or continue disputes, to avert the favour and esteem of benefactors from their dependants, to render some one whom we dislike contemptible or obnoxious in the public opinion, are all offices of slander; of which the guilt must be measured by the intensity and extent of the misery produced.

The disguises under which slander is conveyed, whether in a whisper, with injunctions of secrecy, by way of caution, or with affected reluctance, are all so many aggravations of the offence, as they indicate more deliberation and design.

Inconsiderate slander is a different offence, although the same mischief actually follow, and although the mischief might have been foreseen. The not being conscious of that design, which we have hitherto attributed to the slanderer, makes the difference.

The guilt here consists in the want of that regard to the consequences of our conduct, which a just affection for human happiness, and concern for our duty, would not have

failed to have produced in us. And it is no answer to this crimination to say, that we entertained no evil *design*. A servant may be a very bad servant, and yet seldom or never *design* to act in opposition to his master's interest or will: and his master may justly punish such servant for a thoughtlessness and neglect nearly as prejudicial as deliberate disobedience. I accuse you not, he may say, of any express intention to hurt me; but had not the fear of my displeasure, the care of my interest, and indeed all the qualities which constitute the merit of a good servant, been wanting in you, they would not only have excluded every direct purpose of giving me uneasiness, but have been so far present to your thoughts, as to have checked that unguarded licentiousness by which I have suffered so much, and inspired you in its place with an habitual solicitude about the effects and tendency of what you did or said. This very much resembles the case of all sins of inconsideration; and, amongst the foremost of these, that of inconsiderate slander.

Information communicated for the real

purpose of warning, or cautioning, is not slander.

Indiscriminate praise is the opposite of slander, but it is the opposite extreme; and, however it may affect to be thought excess of candour, is commonly the effusion of a frivolous understanding, or proceeds from a settled contempt of all moral distinctions.

MORAL PHILOSOPHY.

BOOK III.

PART III.

OF RELATIVE DUTIES WHICH RESULT FROM THE CONSTITUTION OF THE SEXES.

THE constitution of the sexes is the foundation of *marriage*.

Collateral to the subject of marriage, are fornication, seduction, adultery, incest, polygamy, divorce.

Consequential to marriage, is the relation and reciprocal duty of parent and child.

We will treat of these subjects in the following order: first, of the public use of marriage-institutions; secondly, of the subjects collateral to marriage, in the order in which we have here proposed them; thirdly, of marriage itself; and, lastly, of the relation and reciprocal duties of parents and children.

CHAPTER I.

OF THE PUBLIC USE OF MARRIAGE-INSTITUTIONS.

THE public use of marriage-institutions consists in their promoting the following beneficial effects.

1. The private comfort of individuals, especially of the female sex. It may be true, that all are not interested in this reason; nevertheless, it is a reason to all for abstaining from any conduct which tends in its general consequence to obstruct marriage: for, whatever promotes the happiness of the majority, is binding upon the whole.

2. The production of the greatest number of healthy children, their better education, and the making of due provision for their settlement in life.

3. The peace of human society, in cutting off a principal source of contention, by assigning one or more women to one man, and protecting his exclusive right by sanctions of morality and law.

4. The better government of society, by distributing the community into separate families, and appointing over each the authority of a master of a family, which has more actual influence than all civil authority put together.

5. The same end, in the additional security which the state receives for the good behaviour of its citizens, from the solicitude they feel for the welfare of their children, and from their being confined to permanent habitations.

6. The encouragement of industry.

Some ancient nations appear to have been more sensible of the importance of marriage-institutions than we are. The Spartans obliged their citizens to marry by penalties, and the Romans encouraged theirs by the *jus trium liberorum*. A man who had no child, was entitled by the Roman law only to one half of any legacy that should be left him, that is, at the most, could only receive one half of the testator's fortune.

CHAPTER II.

FORNICATION.

The first and great mischief, and by consequence the guilt, of promiscuous concubinage, consists in its tendency to diminish marriages, and thereby to defeat the several beneficial purposes enumerated in the preceding chapter.

Promiscuous concubinage discourages marriage, by abating the chief temptation to it. The male part of the species will not undertake the incumbrance, expense, and restraint of married life, if they can gratify their passions at a cheaper price; and they will undertake any thing, rather than not gratify them.

The reader will learn to comprehend the magnitude of this mischief, by attending to the importance and variety of the uses to which marriage is subservient; and by recollecting withal, that the malignity and moral quality of each crime is not to be estimated by the particular effect of one offence, or of one person's offending, but by the general tendency and consequence of crimes of the same nature. The libertine

may not be conscious that these irregularities hinder his own marriage, from which he is deterred, he may allege, by different considerations; much less does he perceive how *his* indulgencies can hinder other men from marrying: but what will he say would be the consequence, if the same licentiousness were universal? or what should hinder its becoming universal, if it be innocent or allowable in him?

2. Fornication supposes prostitution; and prostitution brings and leaves the victims of it to almost certain misery. It is no small quantity of misery in the aggregate, which, between want, disease, and insult, is suffered by those outcasts of human society, who infest populous cities; the whole of which is a *general consequence* of fornication, and to the increase and continuance of which, every act and instance of fornication contributes.

3. Fornication* produces habits of ungovernable lewdness, which introduce the

* Of this passion it has been truly said, "that irregularity has no limits; that one excess draws on another; that the most easy, therefore, as well as the most excellent way of being virtuous, is to be so entirely." Ogden, Serm. xvi.

more aggravated crimes of seduction, adultery, violation, &c. Likewise, however it be accounted for, the criminal commerce of the sexes corrupts and depraves the mind and moral character more than any single species of vice whatsoever. That ready perception of guilt, that prompt and decisive resolution against it, which constitutes a virtuous character, is seldom found in persons addicted to these indulgences. They prepare an easy admission for every sin that seeks it; are, in low life, usually the first stage in men's progress to the most desperate villanies; and, in high life, to that lamented dissoluteness of principle, which manifests itself in a profligacy of public conduct, and a contempt of the obligations of religion and of moral probity. Add to this, that habits of libertinism incapacitate and indispose the mind for all intellectual, moral, and religious pleasures; which is a great loss to any man's happiness.

4. Fornication perpetuates a disease, which may be accounted one of the sorest maladies of human nature; and the effects of which are said to visit the constitution of even distant generations.

The passion being natural, proves that it was intended to be gratified; but under what restrictions, or whether without any, must be collected from different considerations.

The Christian Scriptures condemn fornication absolutely and peremptorily. "Out "of the heart," says our Saviour, "proceed evil thoughts, murders, adulteries, "*fornication*, thefts, false witness, blasphemies; these are the things which defile a man." These are Christ's own words: and one word from him upon the subject, is final. It may be observed with what society fornication is classed; with murders, thefts, false witness, blasphemies. I do not mean that these crimes are all equal, because they are all mentioned together: but it proves that they are all crimes. The apostles are more full upon this topic. One well-known passage in the Epistle to the Hebrews, may stand in the place of all others; because, admitting the authority by which the apostles of Christ spake and wrote, it is decisive: "Marriage "and the bed undefiled is honourable "amongst all men: but whoremongers "and adulterers God will judge;" which

was a great deal to say, at a time when it was not agreed, even amongst philosophers themselves, that fornication was a crime.

The Scriptures give no sanction to those austerities, which have been since imposed upon the world under the name of Christ's religion; as the celibacy of the clergy, the praise of perpetual virginity, the *prohibitio concubitûs cum gravidâ uxore*; but with a just knowledge of, and regard to, the condition and interest of the human species have provided, in the marriage of one man with one woman, an adequate gratification for the propensities of their nature, and have *restricted* them to that gratification.

The avowed toleration, and in some countries the licensing, taxing, and regulating of public brothels, has appeared to the people an authorising of fornication; and has contributed, with other causes, so far to vitiate the public opinion, that there is no practice of which the immorality is so little thought of or acknowledged, although there are few, in which it can more plainly be made out. The legislators who have patronised receptacles of prostitution, ought to have foreseen this effect, as well as considered, that whatever facilitates fornica-

tion, diminishes marriages. And, as to the usual apology for this relaxed discipline, the danger of greater enormities, if access to prostitutes were too strictly watched and prohibited, it will be time enough to look to that, when the laws and the magistrates have done their utmost. The greatest vigilance of both will do no more, than oppose some bounds and some difficulties to this intercourse. And, after all, these pretended fears are without foundation in experience. The men are in all respects the most virtuous, in countries where the women are most chaste.

There is a species of cohabitation, distinguishable, no doubt, from vagrant concubinage, and which, by reason of its resemblance to marriage, may be thought to participate of the sanctity and innocence of that estate; I mean the case of *kept mistresses*, under the favourable circumstance of mutual fidelity. This case I have heard defended by some such apology as the following:—

"That the marriage-rite being different "in different countries, and in the same "country amongst different sects, and with "some scarce any thing; and, moreover,

" not being prescribed or even mentioned " in Scripture, can be accounted for only " as of a form and ceremony of human in- " vention: that, consequently, if a man " and woman betroth and confine them- " selves to each other, their intercourse " must be the same, as to all moral pur- " poses, as if they were legally married: " for, the addition or omission of that which " is a mere form and ceremony, can make " no difference in the sight of God, or in " the actual nature of right and wrong."

To all which it may be replied,

1. If the situation of the parties be the same thing as marriage, why do they not marry?

2. If the man choose to have it in his power to dismiss the woman at his pleasure, or to retain her in a state of humiliation and dependence inconsistent with the rights which marriage would confer upon her, it is not the same thing.

It is not at any rate the same thing to the children.

Again, as to the marriage-rite being a mere form, and that also variable, the same may be said of signing and sealing of bonds, wills, deeds of conveyance, and the

like, which yet make a great difference in the rights and obligations of the parties concerned in them.

And with respect to the rite not being appointed in Scripture;—the Scriptures forbid fornication, that is, cohabitation without marriage, leaving it to the law of each country to pronounce what is, or what makes, a marriage; in like manner as they forbid thefts, that is, the taking away of another's property, leaving it to the municipal law to fix what makes the thing property, or whose it is; which also, as well as marriage, depend upon arbitrary and mutable forms.

Laying aside the injunctions of Scripture, the plain account of the question seems to be this: It is immoral, because it is pernicious, that men and women should cohabit, without undertaking certain irrevocable obligations, and mutually conferring certain civil rights; if, therefore, the law has annexed these rights and obligations to certain forms, so that they cannot be secured or undertaken by any other means, which is the case here (for whatever the parties may promise to each other, nothing but the marriage-ceremony can make

their promise irrevocable), it becomes in the same degree immoral, that men and women should cohabit without the interposition of these forms.

If fornication be criminal, all those incentives which lead to it are accessaries to the crime, as lascivious conversation, whether expressed in obscene or disguised under modest phrases; also wanton songs, pictures, books; the writing, publishing, and circulating of which, whether out of frolic, or for some pitiful profit, is productive of so extensive a mischief from so mean a temptation, that few crimes, within the reach of private wickedness, have more to answer for, or less to plead in their excuse.

Indecent conversation, and by parity of reason all the rest, are forbidden by St. Paul, Eph. iv. 29: "Let no corrupt communication proceed out of your mouth;" and again, Col. iii. 8.: "Put off—filthy communication out of your mouth."

The invitation, or voluntary admission of impure thoughts, or the suffering them to get possession of the imagination, falls

within the same description, and is condemned by Christ, Matt. v. 28: "Whosoever looketh on a woman to lust after her, hath committed adultery with her already in his heart." Christ, by thus enjoining a regulation of the thoughts, strikes at the root of the evil.

CHAPTER III.

SEDUCTION.

THE *seducer* practises the same stratagems to draw a woman's person into his power, that a *swindler* does, to get possession of your goods, or money; yet the *law of honour*, which abhors deceit, applauds the address of a successful intrigue: so much is this capricious rule guided by names, and with such facility does it accommodate itself to the pleasures and conveniency of higher life!

Seduction is seldom accomplished without fraud; and the fraud is by so much more criminal than other frauds, as the injury effected by it is greater, continues longer, and less admits of reparation.

This injury is threefold: to the woman, to her family, and to the public.

I. The injury to the woman is made up, of the *pain* she suffers from shame, or the *loss* she sustains in her reputation and prospects of marriage, and of the *depravation of her moral principle.*

1. This *pain* must be extreme, if we may judge of it from those barbarous endeavours to conceal their disgrace, to which women, under such circumstances, sometimes have recourse; comparing also this barbarity with their passionate fondness for their offspring in other cases. Nothing but an agony of mind the most insupportable can induce a woman to forget her nature, and the pity which even a stranger would show to a helpless and imploring infant. It is true, that all are not urged to this extremity; but if any are, it affords an indication of how much all suffer from the same cause. What shall we say to the authors of such mischief?

2. The *loss* which a woman sustains by the ruin of her reputation, almost exceeds computation. Every person's happiness depends in part upon the respect and reception which they meet with in the world;

and it is no inconsiderable mortification, even to the firmest tempers, to be rejected from the society of their equals, or received there with neglect and disdain. But this is not all, nor the worst. By a rule of life, which it is not easy to blame, and which it is impossible to alter, a woman loses with her chastity the chance of marrying at all, or in any manner equal to the hopes she had been accustomed to entertain. Now marriage, whatever it be to a man, is that, from which every woman expects her chief happiness. And this is still more true in low life, of which condition the women are who are most exposed to solicitations of this sort. Add to this, that where a woman's maintenance depends upon her character (as it does in a great measure, with those who are to support themselves by service), little sometimes is left to the forsaken sufferer, but to starve for want of employment, or to have recourse to prostitution for food and raiment.

3. As a woman collects her virtue into this point, the loss of her chastity is generally the *destruction of her moral principle*; and this consequence is to be apprehended,

whether the criminal intercourse be discovered or not.

II. The injury to the family may be understood, by the application of that infallible rule, "of doing to others what *we* "*would* that others should do unto us."—Let a father or a brother say, for what consideration they would suffer this injury to a daughter or a sister; and whether any, or even a total loss of fortune could create equal affliction and distress. And when they reflect upon this, let them distinguish, if they can, between a robbery, committed upon their property by fraud or forgery, and the ruin of their happiness by the treachery of a seducer.

III. The public at large lose the benefit of the woman's service in her proper place and destination, as a wife and parent. This, to the whole community, may be little; but it is often more than all the good which the seducer does to the community can recompense. Moreover, prostitution is supplied by seduction; and in proportion to the danger there is of the woman's betaking herself after her first sacrifice, to a life of public lewdness, the seducer is answerable

for the multiplied evils to which his crime gives birth.

Upon the whole, if we pursue the effects of seduction through the complicated misery which it occasions; and if it be right to estimate crimes by the mischief they knowingly produce, it will appear something more than mere invective to assert, that not one half of the crimes, for which men suffer death by the laws of England, are so flagitious as this*.

CHAPTER IV.

ADULTERY.

A NEW sufferer is introduced, the injured husband, who receives a wound in his sensibility and affections, the most painful and incurable that human nature knows. In all other respects, adultery on the part of the man who solicits the chastity of a mar-

* Yet the law has provided no punish[illegible] offence beyond a pecuniary satisfaction [illegible] family; and this can only be come at [illegible] quaintest fictions in the world, by the [illegible] his action against the seducer, for the los[illegible] service, during her pregnancy and nurtu[illegible]

ried woman, includes the crime of seduction, and is attended with the same mischief.

The infidelity of the woman is aggravated by cruelty to her children, who are generally involved in their parents' shame, and always made unhappy by their quarrel.

If it be said that these consequences are chargeable not so much upon the crime, as the discovery, we answer, first, that the crime could not be discovered unless it were committed, and that the commission is never secure from discovery; and secondly, that if we excuse adulterous connexions, whenever they can hope to escape detection, which is the conclusion to which this argument conducts us, we leave the husband no other security for his wife's chastity, than in her want of opportunity or temptation; which would probably either deter men from marrying, or render marriage a state of such jealousy and alarm to the husband, as must end in the slavery and confinement of the wife.

The vow, by which married persons mu- [redacted] their fidelity, " is witnessed [redacted]d," and accompanied with cir- [redacted] solemnity and religion, which [redacted]he nature of an oath. The

married offender therefore incurs a crime little short of perjury, and the seduction of a married woman is little less than subornation of perjury;—and this guilt is independent of the discovery.

All behaviour which is designed, or which knowingly tends, to captivate the affection of a married woman, is a barbarous intrusion upon the peace and virtue of a family, though it fall short of adultery.

The usual and only apology for adultery is the prior transgression of the other party. There are degrees, no doubt, in this, as in other crimes: and so far as the bad effects of adultery are anticipated by the conduct of the husband or wife who offends first, the guilt of the second offender is less. But this falls very far short of a justification; unless it could be shown that the obligation of the marriage-vow depends upon the condition of reciprocal fidelity; for which construction there appears no foundation, either in expediency, or in the terms of the promise, or in the design of the legislature which prescribed the marriage-rite. Moreover, the rule contended for by this plea has a manifest tendency to multiply the offence, but none to reclaim the offender.

The way of considering the offence of one party as a *provocation* to the other, and the other as only *retaliating* the injury by repeating the crime, is a childish trifling with words.

"Thou shalt not commit adultery," was an interdict delivered by God himself. By the Jewish law, adultery was capital to both parties in the crime: "Even he that com-
"mitteth adultery with his neighbour's wife,
"the adulterer and adulteress shall surely
"be put to death."—Levit. xx. 10. Which passages prove, that the Divine Legislator placed a great difference between adultery and fornication. And with this agree the Christian Scriptures: for, in almost all the catalogues they have left us of crimes and criminals, they enumerate "fornication,
"adultery, whoremongers, adulterers," (Matthew, xv. 19. 1 Cor. vi. 9. Gal. v. 9. Heb. viii. 4.) by which mention of both, they show that they did not consider them as the same; but that the crime of adultery was, in their apprehension, distinct from and accumulated upon, that of fornication.

The history of the woman taken in adultery, recorded in the eighth chapter of St.

John's Gospel, has been thought by some to give countenance to that crime. As Christ told the woman, "Neither do I "*condemn* thee," we must believe, it is said, that he deemed her conduct either not criminal, or not a crime, however, of the heinous nature which we represent it to be. A more attentive examination of the case will, I think, convince us, that from *it* nothing can be concluded as to Christ's opinion concerning adultery, either one way or the other. The transaction is thus related: "Early in the morning Jesus came "again into the Temple, and all the people "came unto him: and he sat down and "taught them. And the Scribes and Pha- "risees brought unto him a woman taken "in adultery: and when they had set her "in the midst, they say unto him, Master, "this woman was taken in adultery, in the "very act: now Moses, in the law, com- "manded that such should be stoned: but "what sayest thou? This they said tempt- "ing him, that they might have to accuse "him. But Jesus stooped down, and with "his finger wrote on the ground, as though "he heard them not. So when they con- "tinued asking him, he lift up himself, and

" said unto them, He that is without sin " amongst you, let him first cast a stone at " her; and again he stooped down and " wrote on the ground: and they which " heard it, being convicted by their own " conscience, went out one by one, begin- " ning at the eldest, even unto the last; " and Jesus was left alone, and the woman " standing in the midst. When Jesus had " lift up himself, and saw none but the " woman, he said unto her, Woman, where " are those thine accusers? hath no man " condemned thee? She said unto him, " No man, Lord. And he said unto her, " *Neither do I condemn thee*; go, and sin no " more."

" This they said tempting him, that they " might have to accuse him," to draw him, that is, into an exercise of judicial authority, that they might have to accuse him before the Roman governor, of usurping or intermeddling with the civil government. This was their design; and Christ's behaviour throughout the whole affair proceeded from a knowledge of this design, and a determination to defeat it. He gives them at first a cold and sullen reception, well suited to the insidious intention with which they

came: "He stooped down, and with his "finger wrote on the ground, as though he "heard them not." "When they *conti-* "*nued* asking him," when they teased him to speak, he dismissed them with a rebuke, which the impertinent malice of their errand, as well as the sacred character of many of them, deserved: "He that is "without sin (that is, this sin) among you, "let him first cast a stone at her." This had its effect. Stung with the reproof, and disappointed of their aim, they stole away one by one, and left Jesus and the woman alone. And then follows the conversation, which is the part of the narrative most material to our present subject. "Jesus said "unto her, Woman, where are those thine "accusers? hath no man condemned thee? "She said, No man, Lord. And Jesus said "unto her, Neither do I condemn thee; go "and sin no more." Now, when Christ asked the woman, "Hath no man *condemned* "thee?" he certainly spoke, and was understood by the woman to speak, of a legal and judicial condemnation; otherwise, her answer, "No man, Lord," was not true. In every other sense of condemnation, as blame, censure, reproof, private judgement,

and the like, many had condemned her; all those indeed who brought her to Jesus. If then a judicial sentence was what Christ meant by *condemning* in the question, the common use of language requires us to suppose that he meant the same in his reply, "Neither do I condemn thee," *i. e.* I pretend to no judicial character or authority over thee; it is no office or business of mine to pronounce or execute the sentence of the law.

When Christ adds, "Go, and sin no "more," he in effect tells her, that she had sinned already: but as to the degree or quality of the sin, or Christ's opinion concerning it, nothing is declared, or can be inferred, either way.

Adultery, which was punished with death during the Usurpation, is now regarded by the law of England only as a civil injury; for which the imperfect satisfaction that money can afford, may be recovered by the husband.

CHAPTER V.

INCEST.

In order to preserve chastity, in families, and between persons of different sexes, brought up and living together in a state of unreserved intimacy, it is necessary by every method possible to inculcate an abhorrence of incestuous conjunctions; which abhorrence can only be upholden by the absolute reprobation of *all* commerce of the sexes between near relations. Upon this principle, the *marriage* as well as other cohabitations of brothers and sisters, of lineal kindred, and of all who usually live in the same family, may be said to be forbidden by the law of nature.

Restrictions which extend to remoter degrees of kindred than what this reason makes it necessary to prohibit from intermarriage, are founded in the authority of the positive law which ordains them, and can only be justified by their tendency to diffuse wealth, to connect families, or to promote some political advantage.

The Levitical law, which is received in this country, and from which the rule of the Roman law differs very little, prohibits* marriage between relations, within *three* degrees of kindred; computing the generations, not from, but through the common ancestor, and accounting affinity the same as consanguinity. The issue, however, of such marriages are not bastardised, unless the parents be divorced during their life-time.

The Egyptians are said to have allowed of the marriage of brothers and sisters. Amongst the Athenians, a very singular regulation prevailed; brothers and sisters of the half blood, if related by the father's side, might marry; if by the mother's side, they were prohibited from marrying. The same custom also probably obtained in Chaldea so early as the age in which Abraham left it; for, he and Sarah his wife stood in this relation to each other: "And "yet, indeed, she is my sister; she is the "daughter of my father, but not of my "mother; and she became my wife." Gen. xx. 12.

* The Roman law continued the prohibition to the descendants of brothers and sisters without limits. In the Levitical and English law, there is nothing to hinder a man from marrying his *great* niece.

CHAPTER VI.

POLYGAMY.

The equality * in the number of males and females born into the world, intimates the intention of God, that one woman should be assigned to one man: for, if to one man be allowed an exclusive right to five or more women, four or more men must be deprived of the exclusive possession of any: which could never be the order intended.

It seems also a significant indication of the Divine will, that he at first created only one woman to one man. Had God intended polygamy for the species, it is probable he would have begun with it; especially as, by giving to Adam more wives than one, the multiplication of the human race would have proceeded with a quicker progress.

* This equality is not exact. The number of male infants exceeds that of females in the proportion of nineteen to eighteen, or thereabouts; which excess provides for the greater consumption of males by war, seafaring, and other dangerous or unhealthy occupations.

Polygamy not only violates the constitution of nature, and the apparent design of the Deity, but produces to the parties themselves, and to the public, the following bad effects: contests and jealousies amongst the wives of the same husband; distracted affections, or the loss of all affection in the husband himself; a voluptuousness in the rich, which dissolves the vigour of their intellectual as well as active faculties, producing that indolence and imbecility both of mind and body, which have long characterised the nations of the East; the abasement of one half of the human species, who, in countries where polygamy obtains, are degraded into mere instruments of physical pleasure to the other half; neglect of children; and the manifold, and sometimes unnatural mischiefs, which arise from a scarcity of women. To compensate for these evils, polygamy does not offer a single advantage. In the article of population, which it has been thought to promote, the community gain nothing*: for the

* Nothing, I mean, compared with a state in which marriage is nearly universal. Where marriages are less general, and many women unfruitful from the want of husbands, polygamy might at first add a little to population; and but a little: for, as a variety of wives would be sought

question is not, whether one man will have more children by five or more wives than by one; but whether these five wives would not bear the same, or a greater number of children to five separate husbands. And as to the care of the children when produced, and the sending of them into the world in situations in which they may be likely to form and bring up families of their own, upon which the increase and succession of the human species in a great degree depend; this is less provided for, and less practicable, where twenty or thirty children are to be supported by the attention and fortunes of one father, than if they were divided into five or six families, to each of which were assigned the industry and inheritance of two parents.

chiefly from temptations of voluptuousness, it would rather increase the demand for female beauty, than for the sex at large. And this *little* would soon be made less by many deductions. For, first, as none but the opulent can maintain a plurality of wives, where polygamy obtains, the rich indulge in it, while the rest take up with a vague and barren incontineney. And, secondly, women would grow less jealous of their virtue, when they had nothing for which to reserve it, but a chamber in the *haram*; when their chastity was no longer to be rewarded with the rights and happiness of a wife, as enjoyed under the marriage of one woman to one man. These considerations may be added to what is mentioned in the text, concerning the easy and early settlement of children in the world.

Whether simultaneous polygamy was permitted by the law of Moses, seems doubtful*: but whether permitted or not, it was certainly practised by the Jewish patriarchs, both before that law, and under it. The permission, if there were any, might be like that of divorce, "for the "hardness of their heart," in condescension to their established indulgencies, rather than from the general rectitude or propriety of the thing itself. The state of manners in Judea had probably undergone a reformation in this respect before the time of Christ, for in the New Testament we meet with no trace or mention of any such practice being tolerated.

For which reason, and because it was likewise forbidden amongst the Greeks and Romans, we cannot expect to find any express law upon the subject in the Christian code. The words of Christ† (Matt. xix. 9.) may be construed by an easy implication to prohibit polygamy: for, if "whoever "putteth away his wife, and *marrieth* ano-

* See Deut. xvii. 16; xxi. 15.

† "I say unto you, Whosoever shall put away his wife, "except it be for fornication, and shall marry another, "committeth adultery."

" ther, committeth adultery," he who marrieth another *without* putting away the first, is no less guilty of adultery; because the adultery does not consist in the repudiation of the first wife (for, however unjust or cruel that may be, it is not adultery), but in entering into a second marriage during the legal existence and obligation of the first. The several passages in St. Paul's writings, which speak of marriage, always suppose it to signify the union of one man with one woman. Upon this supposition he argues, Rom. vii. 2, 3: " Know ye not, " brethren (for I speak to them that know " the law), how that the law hath dominion " over a man, as long as he liveth? For the " woman which hath an husband, is bound " by the law to her husband so long as he " liveth: but if the husband be dead, she " is loosed from the law of her husband: so " then, if while her husband liveth she be " married to another man, she shall be " called an adulteress." When the same apostle permits marriage to his Corinthian converts (which, " for the present distress," he judges to be inconvenient), he restrains the permission to the marriage of one husband with one wife:—" It is good for a

" man not to touch a woman; nevertheless,
" to avoid fornication, let every man have
" his own wife, and let every woman have
" her own husband."

The manners of different countries have varied in nothing more than in their domestic constitutions. Less polished and more luxurious nations have either not perceived the bad effects of polygamy, or, if they did perceive them, they who in such countries possessed the power of reforming the laws have been unwilling to resign their own gratifications. Polygamy is retained at this day among the Turks, and throughout every part of Asia in which Christianity is not professed. In Christian countries, it is universally prohibited. In Sweden, it is punished with death. In England, besides the nullity of the second marriage, it subjects the offender to transportation or imprisonment and branding for the first offence, and to capital punishment for the second. And whatever may be said in behalf of polygamy, when it is authorised by the law of the land, the marriage of a second wife during the life-time of the first, in countries where such a second marriage is void, must be ranked with

the most dangerous and cruel of those frauds, by which a woman is cheated out of her fortune, her person, and her happiness.

The ancient Medes compelled their citizens, in one canton, to take seven wives; in another, each woman to receive five husbands: according as war had made, in one quarter of their country, an extraordinary havoc among the men, or the women had been carried away by an enemy from another. This regulation, so far as it was adapted to the proportion which subsisted between the number of males and females, was founded in the reason upon which the most improved nations of Europe proceed at present.

Cæsar found amongst the inhabitants of this island a species of polygamy, if it may be so called, which was perfectly singular. *Uxores*, says he, *habent deni duodenique inter se communes, et maximè fratres cum fratribus, parentesque cum liberis: sed si qui sint ex his nati, eorum habentur liberi, quo primum virgo quæque deducta est.*

CHAPTER VII.

OF DIVORCE.

By *divorce*, I mean the dissolution of the marriage-contract, by the act, and at the will, of the husband.

This power was allowed to the husband, among the Jews, the Greeks, and latter Romans; and is at this day exercised by the Turks and Persians.

The congruity of such a right with the law of nature, is the question before us.

And, in the first place, it is manifestly inconsistent with the duty, which the parents owe to their children; which duty can never be so well fulfilled as by their cohabitation and united care. It is also incompatible with the right which the mother possesses, as well as the father, to the gratitude of her children and the comfort of their society; of both which she is almost necessarily deprived, by her dismission from her husband's family.

Where this objection does not interfere, I know of no principle of the law of nature

applicable to the question, beside that of general expediency.

For, if we say, that arbitrary divorces are excluded by the terms of the marriage-contract, it may be answered, that the contract might be so framed as to admit of this condition.

If we argue with some moralists, that the obligation of a contract naturally continues, so long as the purpose, which the contracting parties had in view, requires its continuance; it will be difficult to show what purpose of the contract (the care of children excepted) should confine a man to a woman, from whom he seeks to be loose.

If we contend with others, that a contract cannot, by the law of nature, be dissolved, unless the parties be replaced in the situation which each possessed before the contract was entered into; we shall be called upon to prove this to be an universal or indispensable property of contracts.

I confess myself unable to assign any circumstance in the marriage-contract, which essentially distinguishes it from other contracts, or which proves that it contains, what many have ascribed to it, a natural

incapacity of being dissolved by the consent of the parties, at the option of one of them, or either of them. But if we trace the effects of such a rule upon the general happiness of married life, we shall perceive reasons of expediency, that abundantly justify the policy of those laws which refuse to the husband the power of divorce, or restrain it to a few extreme and specific provocations: and our principles teach us to pronounce that to be contrary to the law of nature, which can be proved to be detrimental to the common happiness of the human species.

A lawgiver, whose counsels are directed by views of general utility, and obstructed by no local impediment, would make the marriage-contract indissoluble during the joint lives of the parties, for the sake of the following advantages:—

I. Because this tends to preserve peace and concord between married persons, by perpetuating their common interest, and by inducing a necessity of mutual compliance.

There is great weight and substance in both these considerations. An earlier termination of the union would produce a separate interest. The wife would naturally

look forward to the dissolution of the partnership, and endeavour to draw to herself a fund against the time when she was no longer to have access to the same resources. This would beget peculation on one side, and mistrust on the other; evils which at present very little disturb the confidence of married life. The second effect of making the union determinable only by death, is not less beneficial. It necessarily happens that adverse tempers, habits, and tastes, oftentimes meet in marriage. In which case, each party must take pains to give up what offends, and practise what may gratify the other. A man and woman in love with each other, do this insensibly: but love is neither general nor durable; and where that is wanting, no lessons of duty, no delicacy of sentiment, will go half so far with the generality of mankind and womankind, as this one intelligible reflection, that they must each make the best of their bargain; and that, seeing they must either both be miserable, or both share in the same happiness, neither can find their own comfort, but in promoting the pleasure of the other. These compliances, though at first extorted by necessity, become in time easy and mu-

tual; and, though less endearing than assiduities which take their rise from affection, generally procure to the married pair a repose and satisfaction sufficient for their happiness.

II. Because new objects of desire would be continually sought after, if men could, at will, be released from their subsisting engagements. Suppose the husband to have once preferred his wife to all other women, the duration of this preference cannot be trusted to. Possession makes a great difference: and there is no other security against the invitations of novelty, than the known impossibility of obtaining the object. Did the cause which brings the sexes together, hold them together by the same force with which it first attracted them to each other, or could the woman be restored to her personal integrity, and to all the advantages of her virgin estate; the power of divorce might be deposited in the hands of the husband, with less danger of abuse or inconveniency. But constituted as mankind are, and injured as the repudiated wife generally must be, it is necessary to add a stability to the condition of married women, more secure than the conti-

nuance of their husbands' affection; and to supply to both sides, by a sense of duty and of obligation, what satiety has impaired of passion and of personal attachment. Upon the whole, the power of divorce is evidently and greatly to the disadvantage of the woman: and the only question appears to be, whether the real and permanent happiness of one half of the species should be surrendered to the caprice and voluptuousness of the other?

We have considered divorces as depending upon the will of the husband, because that is the way in which they have actually obtained in many parts of the world: but the same objections apply, in a great degree, to divorces by mutual consent; especially when we consider the indelicate situation and small prospect of happiness, which remains to the party, who opposed his or her dissent to the liberty and desire of the other.

The law of nature admits of an exception in favour of the injured party, in cases of adultery, of obstinate desertion, of attempts upon life, of outrageous cruelty, of incurable madness, and perhaps of personal imbecility; but by no means indulges

the same privilege to mere dislike, to opposition of humours and inclinations, to contrariety of taste and temper, to complaints of coldness, neglect, severity, peevishness, jealousy; not that these reasons are trivial, but because such objections may always be alleged, and are impossible by testimony to be ascertained; so that to allow implicit credit to them, and to dissolve marriages whenever either party thought fit to pretend them, would lead in its effect to all the licentiousness of arbitrary divorces.

Milton's story is well known. Upon a quarrel with his wife, he paid his addresses to another woman, and set forth a public vindication of his conduct, by attempting to prove, that confirmed dislike was as just a foundation for dissolving the marriage-contract, as adultery; to which position, and to all the arguments by which it can be supported, the above consideration affords a sufficient answer. And if a married pair, in actual and irreconcileable discord, complain that their happiness would be better consulted, by permitting them to determine a connexion, which is become odious to both, it may be told them, that the

same permission, as a general rule, would produce libertinism, dissension, and misery, amongst thousands, who are now virtuous, and quiet, and happy, in their condition: and it ought to satisfy them to reflect, that when their happiness is sacrificed to the operation of an unrelenting rule, it is sacrificed to the happiness of the community.

The Scriptures seem to have drawn the obligation tighter than the law of nature left it. "Whosoever," saith Christ, "shall "put away his wife, except it be for for-"nication, and shall marry another, com-"mitteth adultery: and whoso marrieth "her which is put away, doth commit "adultery."—Matt. xix. 9. The law of Moses, for reasons of local expediency, permitted the Jewish husband to put away his wife: but whether for every cause, or for what causes, appears to have been controverted amongst the interpreters of those times. Christ, the precepts of whose religion were calculated for more general use and observation, revokes this permission (as given to the Jews "for the hardness "of their hearts"), and promulges a law which was thenceforward to confine di-

vorces to the single cause of adultery in the wife. And I see no sufficient reason to depart from the plain and strict meaning of Christ's words. The rule was new. It both surprised and offended his disciples; yet Christ added nothing to relax or explain it.

Inferior causes may justify the separation of husband and wife, although they will not authorise such a dissolution of the marriage-contract, as would leave either party at liberty to marry again: for, it is that liberty in which the danger and mischief of divorces principally consist. If the care of children does not require that they should live together, and it is become, in the serious judgement of both, necessary for their mutual happiness that they should separate, let them separate by consent. Nevertheless, this necessity can hardly exist, without guilt and misconduct on one side or on both. Moreover, cruelty, ill-usage, extreme violence, or moroseness of temper, or other great and continued provocations, make it lawful for the party aggrieved to withdraw from the society of the offender without his or her consent. The law which imposes the marriage-vow, whereby the parties pro-

mise to "keep to each other," or in other words, to live together, must be understood to impose it with a silent reservation of these cases; because the same law has constituted a judicial relief from the tyranny of the husband, by the divorce *à mensa et toro*, and by the provision which it makes for the separate maintenance of the injured wife. St. Paul likewise distinguishes between a wife's merely separating herself from the family of her husband, and her marrying again:—"Let not the wife de-"part from her husband: but and if she do "depart, let her remain unmarried."

The law of this country, in conformity to our Saviour's injunction, confines the dissolution of the marriage-contract to the single case of adultery in the wife; and a divorce even in that case, can only be brought about by the operation of an act of parliament, founded upon a previous sentence in the ecclesiastical court, and a verdict against the adulterer at common law: which proceedings taken together, compose as complete an investigation of the complaint as a cause can receive. It has lately been proposed to the legislature to annex a clause to these acts, restraining the offending party

from marrying with the companion of her crime, who, by the course of proceeding, is always known and convicted: for, there is reason to fear, that adulterous connexions are often formed with the prospect of bringing them to this conclusion; at least, when the seducer has once captivated the affection of a married woman, he may avail himself of this tempting argument to subdue her scruples, and complete his victory; and the legislature, as the business is managed at present, assists by its interposition the criminal design of the offenders, and confers a privilege where it ought to inflict a punishment. The proposal deserved an experiment: but something more penal will, I apprehend, be found necessary to check the progress of this alarming depravity. Whether a law might not be framed directing *the fortune of the adulteress to descend as in case of her natural death*; reserving, however, a certain proportion of the produce of it, by way of annuity, for her subsistence (such annuity, in no case, to exceed a fixed sum), and also so far suspending the estate in the hands of the heir as to preserve the inheritance to any children she might bear to a second mar-

riage, in case there was none to succeed in the place of their mother by the first; whether, I say, such a law would not render female virtue in higher life less vincible, as well as the seducers of that virtue less urgent in their suit, we recommend to the deliberation of those, who are willing to attempt the reformation of this important, but most incorrigible, class of the community. A passion for splendor, for expensive amusements, and distinction, is commonly found, in that description of women who would become the objects of such a law, not less inordinate than their other appetites. A severity of the kind we propose, applies immediately to that passion. And there is no room for any complaint of injustice, since the provisions above stated, with others which might be contrived, confine the punishment, so far as it is possible, to the person of the offender; suffering the estate to remain to the heir, or within the family, of the ancestor from whom it came, or to attend the appointments of his will.

Sentences of the ecclesiastical courts, which release the parties *à vinculo matrimonii* by reason of impuberty, frigidity, consanguinity within the prohibited degrees,

prior marriage, or want of the requisite consent of parents and guardians, are not dissolutions of the marriage-contract, but judicial declarations that there never was any marriage; such impediment subsisting at the time, as rendered the celebration of the marriage-rite a mere nullity. And the rite itself contains an exception of these impediments. The man and woman to be married are charged, "if they know any "impediment why they may not be law-"fully joined together, to confess it;" and assured "that so many as are coupled to-"gether, otherwise than God's word doth "allow, are not joined together by God, "neither is their matrimony lawful;" all which is intended by way of solemn notice to the parties, that the vow they are about to make will bind their consciences and authorise their cohabitation, only upon the supposition that no legal impediment exists.

CHAPTER VIII.

MARRIAGE.

WHETHER it hath grown out of some tradition of the Divine appointment of marriage in the persons of our first parents, or merely from a design to impress the obligation of the marriage-contract with a solemnity suited to its importance, the marriage-rite, in almost all countries of the world, has been made a religious ceremony*; although marriage, in its own nature, and abstracted from the rules and declarations which the Jewish and Christian Scriptures deliver concerning it, be properly a civil contract, and nothing more.

With respect to one main article in matrimonial alliances, a total alteration has taken place in the fashion of the world; the

* It was not, however, in Christian countries required, that marriages should be celebrated in churches, till the thirteenth century of the Christian æra.—Marriages in *England*, during the Usurpation, were solemnised before justices of the peace; but for what purpose this novelty was introduced, except to degrade the clergy, does not appear.

wife now brings money to her husband, whereas anciently the husband paid money to the family of the wife; as was the case among the *Jewish* Patriarchs, the *Greeks*, and the old inhabitants of *Germany**. This alteration has proved of no small advantage to the female sex: for, their importance in point of fortune procures to them, in modern times, that assiduity and respect, which are always wanted to compensate for the inferiority of their strength; but which their personal attractions would not always secure.

Our business is with marriage as it is established in this country. And in treating thereof, it will be necessary to state the terms of the marriage-vow, in order to discover:—

1. What duties this vow creates.

2. What a situation of mind at the time, is inconsistent with it.

3. By what subsequent behaviour it is violated.

The husband promises, on his part, "to "love, comfort, honour, and keep his wife;"

* The ancient *Assyrians* sold their *beauties* by an annual auction. The prices were applied by way of portions to the more homely. By this contrivance, all of both sorts were disposed of in marriage.

the wife on hers, "to obey, serve, love, "honour, and keep her husband;" in every variety of health, fortune, and condition: and both stipulate "to forsake all others, "and to keep only unto one another, so "long as they both shall live." This promise is called the marriage-vow; is witnessed before God and the congregation; accompanied with prayers to Almighty God for his blessing upon it; and attended with such circumstances of devotion and solemnity as place the obligation of it, and the guilt of violating it, nearly upon the same foundation with that of oaths.

The parties by this vow engage their personal fidelity expressly and specifically; they engage likewise to consult and promote each other's happiness; the wife, moreover, promises *obedience* to her husband. Nature may have made and left the sexes of the human species nearly equal in their faculties, and perfectly so in their rights: but to guard against those competitions which equality, or a contested superiority, is almost sure to produce, the Christian Scriptures enjoin upon the wife that obedience which she here promises, and in terms so peremptory and absolute,

that it seems to extend to every thing not criminal, or not entirely inconsistent with the woman's happiness. "Let the wife," says St. Paul, "be subject to her own "husband in every thing."—"The orna-"ment of a meek and quiet spirit," says the same apostle, speaking of the duty of wives, "is, in the sight of God, of great price." No words ever expressed the true merit of the female character so well as these.

The condition of human life will not permit us to say, that no one can conscientiously marry, who does not prefer the person at the altar to all other men or women in the world: but we can have no difficulty in pronouncing (whether we respect the end of the institution, or the plain terms in which the contract is conceived), that whoever is conscious, at the time of his marriage, of such a dislike to the woman he is about to marry, or of such a subsisting attachment to some other woman, that he cannot reasonably, nor does in fact, expect ever to entertain an affection for his future wife, is guilty, when he pronounces the marriage-vow, of a direct and deliberate prevarication; and that, too, aggravated by the presence of those ideas of religion,

and of the Supreme Being, which the place, the ritual, and the solemnity of the occasion, cannot fail of bringing to his thoughts. The same likewise of the woman. This charge must be imputed to all who, from mercenary motives, marry the objects of their aversion and disgust; and likewise to those who desert, from any motive whatever, the object of their affection, and, without being able to subdue that affection, marry another.

The crime of falsehood is also incurred by the man who intends, at the time of his marriage, to commence, renew, or continue a personal commerce with any other woman. And the parity of reason, if a wife be capable of so much guilt, extends to her.

The marriage-vow is violated,

I. By adultery.

II. By any behaviour which, knowingly, renders the life of the other miserable; as desertion, neglect, prodigality, drunkenness, peevishness, penuriousness, jealousy, or any levity of conduct, which administers occasion of jealousy.

A late regulation in the law of marriages, in this country, has made the consent of the father, if he be living, of the mother, if she survive the father, and remain unmarried, or of guardians, if both parents be dead, necessary to the marriage of a person under twenty-one years of age. By the Roman law, the consent *et avi et patris* was required so long as they lived. In France, the consent of parents is necessary to the marriage of sons, until they attain to thirty years of age; of daughters, until twenty-five. In Holland, for sons till twenty-five; for daughters, till twenty. And this distinction between the sexes appears to be well founded; for, a woman is usually as properly qualified for the domestic and interior duties of a wife or mother at eighteen, as a man is for the business of the world, and the more arduous care of providing for a family, at twenty-one.

The constitution also of the human species indicates the same distinction*.

* Cùm vis prolem procreandi diutiùs hæreat in mare quàm in fœminâ, populi numerus nequaquam minuetur, si serùs venerem colere inceperint viri.

CHAPTER IX.

OF THE DUTY OF PARENTS.

That virtue, which confines its beneficence within the walls of a man's own house, we have been accustomed to consider as little better than a more refined selfishness: and yet it will be confessed, that the subject and matter of this class of duties are inferior to none in utility and importance: and where, it may be asked, is virtue the most valuable, but where it does the most good? What duty is the most obligatory, but that on which the most depends? And where have we happiness and misery so much in our power, or liable to be so affected by our conduct, as in our own families? It will also be acknowledged that the good order and happiness of the world are better upholden whilst each man applies himself to his own concerns and the care of his own family, to which he is present, than if every man, from an excess of mistaken generosity, should leave his own business, to undertake his neighbour's, which he must

always manage with less knowledge, convenience, and success. If, therefore, the low estimation of these virtues be well founded, it must be owing, not to their inferior importance, but to some defect or impurity in the motive. And indeed it cannot be denied, but that it is in the power of *association* so to unite our children's interest with our own, as that we shall often pursue both from the same motive, place both in the same object, and with as little sense of duty in one pursuit as in the other. Where this is the case, the judgement above stated, is not far from the truth. And so often as we find a solicitous care of a man's own family, in a total absence or extreme penury of every other virtue, or interfering with other duties, or directing its operation solely to the temporal happiness of the children, placing that happiness and amusement in indulgence whilst they are young, or in advancement of fortune when they grow up, there is reason to believe, that this is the case. In this way, the common opinion concerning these duties may be accounted for and defended. If we look to the subject of them, we perceive them to be indispensable: If we regard the motive.

we find them often not very meritorious. Wherefore, although a man seldom rises high in our esteem who has nothing to recommend him beside the care of his own family, yet we always condemn the neglect of this duty with the utmost severity; both by reason of the manifest and immediate mischief which we see arising from this neglect, and because it argues a want not only of parental affection, but of those moral principles which ought to come in aid of that affection where it is wanting. And if, on the other hand, our praise and esteem of these duties be not proportioned to the good they produce, or to the indignation with which we resent the absence of them, it is for this reason, that virtue is the most valuable, not where it produces the most good, but where it is the most wanted: which is not the case here; because its place is often supplied by instincts, or involuntary associations. Nevertheless, the offices of a parent may be discharged, from a consciousness of their obligation, as well as other duties; and a sense of this obligation is sometimes necessary to assist the stimulus of parental affection; especially in stations of life, in which the wants of a

family cannot be supplied without the continual hard labour of the father, and without his refraining from many indulgences and recreations which unmarried men of like condition are able to purchase. Where the parental affection is sufficiently strong, or has fewer difficulties to surmount, a principle of duty may still be wanted to direct and regulate its exertions: for, otherwise, it is apt to spend and waste itself in a womanish fondness for the person of the child; and improvident attention to his present ease and gratification; a pernicious facility and compliance with his humours; an excessive and superfluous care to provide the externals of happiness, with little or no attention to the internal sources of virtue and satisfaction. Universally, wherever a parent's conduct is prompted or directed by a sense of duty, there is so much virtue.

Having premised thus much concerning the place which parental duties hold in the scale of human virtues, we proceed to state and explain the duties themselves.

When moralists tell us, that parents are bound to do *all they can* for their children, they tell us more than is true? for, at that rate, every expense which might have been

spared, and every profit omitted which might have been made, would be criminal.

The duty of parents has its limits, like other duties; and admits, if not of perfect precision, at least of rule definite enough for application.

These rules may be explained under the several heads of *maintenance*, *education*, and *a reasonable provision for the child's happiness in respect of outward condition*.

I. *Maintenance.*

The wants of children make it necessary that some person maintain them; and, as no one has a right to burden others by his act, it follows, that the parents are bound to undertake this charge themselves. Beside this plain inference, the affection of parents to their children, if it be instinctive, and the provision which nature has prepared in the person of the mother for the sustentation of the infant, concerning the existence and design of which there can be no doubt, are manifest indications of the Divine will.

Hence we learn the guilt of those who run away from their families, or (what is much the same), in consequence of idleness or drunkenness, throw them upon a pa-

rish; or who leave them destitute at their death, when, by diligence and frugality, they might have laid up a provision for their support: also of those, who refuse or neglect the care of their bastard offspring, abandoning them to a condition in which they must either perish or become burdensome to others: for the duty of maintenance, like the reason upon which it is founded, extends to bastards, as well as to legitimate children.

The Christian Scriptures, although they concern themselves little with maxims of prudence or œconomy, and much less authorise worldly-mindedness or avarice, have yet declared in explicit terms their judgement of the obligation of this duty:—"If "any provide not for his own, especially "for those of his own household, he hath "denied the faith, and is worse than an "infidel," (1 Tim. v. 8.); he hath disgraced the Christian profession, and fallen short in a duty which even infidels acknowledge.

II. *Education.*

Education, in the most extensive sense of the word, may comprehend every preparation that is made in our youth for the sequel of our lives: and in this sense I use it.

Some such preparation is necessary for children of all conditions, because without it they must be miserable, and probably will be vicious, when they grow up, either from want of the means of subsistence, or from want of rational and inoffensive occupation. In civilised life, every thing is effected by art and skill. Whence a person who is provided with neither (and neither can be acquired without exercise and instruction) will be useless; and he that is useless, will generally be at the same time mischievous to the community. So that to send an uneducated child into the world, is injurious to the rest of mankind; it is little better than to turn out a mad dog or a wild beast into the streets.

In the inferior classes of the community, this principle condemns the neglect of parents, who do not inure their children betimes to labour and restraint, by providing them with apprenticeships, services, or other regular employment, but who suffer them to waste their youth in idleness and vagrancy, or to betake themselves to some lazy, trifling, and precarious calling: for, the consequence of having thus tasted the sweets of natural liberty, at an age when

their passion and relish for it are at the highest, is, that they become incapable, for the remainder of their lives, of continued industry, or of persevering attention to any thing; spend their time in a miserable struggle between the importunity of want, and the irksomeness of regular application; and are prepared to embrace every expedient, which presents a hope of supplying their necessities without confining them to the plough, the loom, the shop, or the counting-house.

In the middle orders of society, those parents are most reprehensible, who neither qualify their children for a profession, nor enable them to live without one*; and those in the highest, who, from indolence, indulgence, or avarice, omit to procure their children those liberal attainments, which are necessary to make them useful in the stations to which they are destined. A man of fortune, who permits his son to consume the season of education in hunting, shooting, or in frequenting horse-races, assemblies, or other unedifying, if not vicious, di-

* Amongst the *Athenians*, if the parent did not put his child into a way of getting a livelihood, the child was not bound to make provision for the parent when old and necessitous.

versions, defrauds the community of a benefactor, and bequeaths them a nuisance.

Some, though not the same, preparation for the sequel of their lives, is necessary for youth of every description: and therefore for bastards, as well as for children of better expectations. Consequently, they who leave the education of their bastards to chance, contenting themselves with making provision for their subsistence, desert half their duty.

III. A reasonable provision for the happiness of a child, in respect of outward condition, requires three things: a situation suited to his habits and reasonable expectations; a competent provision for the exigencies of that situation; and a probable security for his virtue.

The first two articles will vary with the condition of the parent. A situation somewhat approaching in rank and condition to the parent's own; or, where that is not practicable, similar to what other parents of like condition provide for their children, bounds the reasonable, as well as (generally speaking) the actual expectations of the child, and therefore contains the extent of the parent's obligation.

Hence, a peasant satisfies his duty, who sends out his children, properly instructed for their occupation, to husbandry, or to any branch of manufacture. Clergymen, lawyers, physicians, officers in the army or navy, gentlemen possessing moderate fortunes of inheritance, or exercising trade in a large or liberal way, are required by the same rule to provide their sons with learned professions, commissions in the army or navy, places in public offices, or reputable branches of merchandise. Providing a child with a situation, includes a competent supply for the expenses of that situation, until the profits of it enable the child to support himself. Noblemen and gentlemen of high rank and fortune may be bound to transmit an inheritance to the representatives of their family, sufficient for their support without the aid of a trade or profession, to which there is little hope that a youth, who has been flattered with other expectations, will apply himself with diligence or success. In these parts of the world, public opinion has assorted the members of the community into four or five general classes, each class comprising a great variety of employments and professions, the choice

of which must be committed to the private discretion of the parent *. All that can be expected from parents as a *duty*, and therefore the only rule which a moralist can deliver upon the subject, is that they endeavour to preserve their children in the *class*

* The health and virtue of a child's future life are considerations so superior to all others, that whatever is likely to have the smallest influence upon these, deserves the parent's first attention. In respect of health, agriculture, and all active, rural, and out-of-door employments, are to be preferred to manufactures, and sedentary occupations. In respect of virtue, a course of dealings in which the advantage is mutual, in which the profit on one side is connected with the benefit of the other (which is the case in trade, and all serviceable art or labour), is more favourable to the moral character, than callings in which one man's gain is another man's loss; in which what you acquire, is acquired without equivalent, and parted with in distress; as in gaming, and whatever partakes of gaming, and in the predatory profits of war. The following distinctions also deserve notice. A business, like a retail trade, in which the profits are small and frequent, and accruing from the employment, furnishes a moderate and constant engagement to the mind, and so far, suits better with the general disposition of mankind, than professions which are supported by fixed salaries, as stations in the church, army, navy, revenue, public offices, &c. or wherein the profits are made in large sums, by a few great concerns, or fortunate adventures; as in many branches of wholesale and foreign merchandise, in which the occupation is neither so constant, nor the activity so kept alive by immediate encouragement. For security, manual arts exceed merchandise, and such as supply the wants of mankind are better than those which minister to their pleasure. Situations which promise an early settlement in marriage, are on many accounts to be chosen before those which require a longer waiting for a larger establishment.

in which they are born, that is to say, in which others of similar expectations are accustomed to be placed; and that they be careful to confine their hopes and habits of indulgence to objects which will continue to be attainable.

It is an ill-judged thrift, in some rich parents, to bring up their sons to mean employments, for the sake of saving the charge of a more expensive education: for these sons, when they become masters of their liberty and fortune, will hardly continue in occupations by which they think themselves degraded, and are seldom qualified for any thing better.

An attention, in the first place, to the exigencies of the children's respective conditions in the world; and a regard, in the second place, to their reasonable expectations, always postponing the expectations to the exigencies when both cannot be satisfied, ought to guide parents in the disposal of their fortunes after their death. And these exigencies and expectations must be measured by the standard which custom has established: for there is a certain appearance, attendance, establishment, and mode of living, which custom has an-

nexed to the several ranks and orders of civil life (and which compose what is called *decency*), together with a certain society, and particular pleasures belonging to each class: and a young person, who is withheld from sharing in these for want of fortune, can scarcely be said to have a fair chance for happiness; the indignity and mortification of such a seclusion being what few tempers can bear, or bear with contentment. And as to the second consideration, of what a child may reasonably expect from his parent, he will expect what he sees all or most others in similar circumstances receive; and we can hardly call expectations unreasonable, which it is impossible to suppress.

By virtue of this rule, a parent is justified in making a difference between his children according as they stand in greater or less need of the assistance of his fortune, in consequence of the difference of their age or sex, or of the situations in which they are placed, or the various success which they have met with.

On account of the few lucrative employments which are left to the female sex, and by consequence the little opportunity they

have of adding to their income, daughters ought to be the particular objects of a parent's care and foresight; and as an option of marriage, from which they can reasonably expect happiness, is not presented to every woman who deserves it, especially in times in which a licentious celibacy is in fashion with the men, a father should endeavour to enable his daughters to lead a single life with independency and decorum, even though he subtract more for that purpose from the portions of his sons than is agreeable to modern usage, or than they expect.

But when the exigencies of their several situations are provided for, and not before, a parent ought to admit the second consideration, the satisfaction of his children's expectations; and upon that principle to prefer the eldest son to the rest, and sons to daughters: which constitutes the right, and the whole right, of primogeniture, as well as the only reason for the preference of one sex to the other. The preference, indeed, of the first-born has one public good effect, that if the estate were divided equally amongst the sons, it would probably make them all idle; whereas, by the present rule

of descent, it makes only one so; which is the less evil of the two. And it must farther be observed on the part of the sons, that if the rest of the community make it a rule to prefer sons to daughters, an individual of that community ought to guide himself by the same rule, upon principles of mere equality. For, as the son suffers by the rule, in the fortune he may expect in marriage, it is but reasonable that he should receive the advantage of it in his own inheritance. Indeed, whatever the rule be, as to the preference of one sex to the other, marriage restores the equality. And as money is generally more convertible to profit, and more likely to promote industry, in the hands of men than of women, the custom of this country may properly be complied with, when it does not interfere with the weightier reason explained in the last paragraph.

The point of the children's actual expectations, together with the expediency of subjecting the illicit commerce of the sexes to every discouragement which it can receive, makes the difference between the claims of legitimate children and of bastards. But neither reason will in any case

justify the leaving of bastards to the world, without provision, education, or profession; or, what is more cruel, without the means of continuing in the situation to which the parent has introduced them; which last is, to leave them to inevitable misery.

After the first requisite, namely, a provision for the exigencies of his situation, is satisfied, a parent may diminish a child's portion, in order to punish any flagrant crime, or to punish contumacy and want of filial duty in instances not otherwise criminal: for a child who is conscious of bad behaviour, or of contempt of his parents' will and happiness, cannot reasonably expect the same instances of his munificence.

A child's vices may be of that sort, and his vicious habits so incorrigible, as to afford much the same reason for believing that he will waste or misemploy the fortune put into his power, as if he were mad or idiotish, in which case a parent may treat him as a madman or an idiot; that is, may deem it sufficient to provide for his support, by an annuity equal to his wants and innocent enjoyments, and which he may be restrained from alienating. This seems to be the only

case in which a disinherison, nearly absolute, is justifiable.

Let not a father hope to excuse an inofficious disposition of his fortune, by alleging, that "every man may do what he will with "his own." All the truth which this expression contains is, that his discretion is under no control of law; and that his will, however capricious, will be valid. This by no means absolves his conscience from the obligations of a parent, or imports that he may neglect, without injustice, the several wants and expectations of his family, in order to gratify a whim or pique, or indulge a preference founded in no reasonable distinction of merit or situation. Although in his intercourse with his family, and in the lesser endearments of domestic life, a parent may not always resist his partiality to a favourite child (which, however, should be both avoided and concealed, as oftentimes productive of lasting jealousies and discontents); yet, when he sits down to make his will, these tendernesses must give place to more manly deliberations.

A father of a family is bound to adjust his œconomy with a view to these demands upon his fortune; and until a sufficiency

for these ends is acquired, or in due time *probably* will be acquired (for, in human affairs, *probability* ought to content us), frugality and exertions of industry are duties. He is also justified in the declining expensive liberality: for, to take from those who want, in order to give to those who want, adds nothing to the stock of public happiness. Thus far, therefore, and no farther, the plea of "children," of "large families," "charity begins at home," &c. is an excuse for parsimony, and an answer to those who solicit our bounty. Beyond this point, as the use of riches becomes less, the desire of *laying up* should abate proportionably. The truth is, our children gain not so much as we imagine, in the chance of this world's happiness, or even of its external prosperity, by setting out in it with large capitals. Of those who have died rich, a great part began with little. And, in respect of enjoyment, there is no comparison between a fortune which a man acquires by well-applied industry, or by a series of successes in his business, and one found in his possession, or received from another.

A principal part of a parent's duty is still behind, *viz.* the using of proper precautions

and expedients, in order to form and preserve his children's virtue.

To us, who believe that, in one stage or other of our existence, virtue will conduct to happiness, and vice terminate in misery; and who observe withal, that men's virtues and vices are, to a certain degree, produced or affected by the management of their youth, and the situations in which they are placed; to all who attend to these reasons, the obligation to consult a child's virtue will appear to differ in nothing from that by which the parent is bound to provide for his maintenance or fortune. The child's interest is concerned in the one means of happiness as well as in the other; and both means are equally, and almost exclusively, in the parents' power.

For this purpose, the first point to be endeavoured after is, to impress upon children the idea of *accountableness*, that is, to accustom them to look forward to the consequences of their actions in another world; which can only be brought about by the parents visibly acting with a view to these consequences themselves. Parents, to do them justice, are seldom sparing of lessons of virtue and religion: in admonitions

which cost little, and which profit less; whilst their *example* exhibits a continual contradiction of what they teach. A father, for instance, will, with much solemnity and apparent earnestness, warn his son against idleness, excess in drinking, debauchery, and extravagance, who himself loiters about all day without employment; comes home every night drunk; is made infamous in his neighbourhood by some profligate connexion; and wastes the fortune which should support, or remain a provision for his family, in riot or luxury, or ostentation. Or he will discourse gravely before his children of the obligation and importance of revealed religion, whilst they see the most frivolous and oftentimes feigned excuses detain him from its reasonable and solemn ordinances. Or he will set before them, perhaps, the supreme and tremendous authority of Almighty God; that such a Being ought not to be named, or even thought upon, without sentiments of profound awe and veneration. This may be the lecture he delivers to his family one hour: when the next, if an occasion arise to excite his anger, his mirth, or his surprise, they will hear him treat the name of

the Deity with the most irreverent profanation, and sport with the terms and denunciations of the Christian religion, as if they were the language of some ridiculous and long-exploded superstition. Now, even a child is not to be imposed upon by such mockery. He sees through the grimace of this counterfeited concern for virtue. He discovers that his parent is acting a part; and receives his admonitions as he would hear the same maxims from the mouth of a player. And when once this opinion has taken possession of the child's mind, it has a fatal effect upon the parent's influence in all subjects; even those, in which he himself may be sincere and convinced. Whereas a silent, but observable, regard to the duties of religion, in the parent's own behaviour, will take a sure and gradual hold of the child disposition, much beyond formal reproofs and chidings, which, being generally prompted by some present provocation, discover more of anger than of principle, and are always received with a temporary alienation and disgust.

A good parent's first care is, to be virtuous himself; his second, to make his virtues as easy and engaging to those about him as

their nature will admit. Virtue itself offends, when coupled with forbidding manners. And some virtues may be urged to such excess, or brought forward so unseasonably, as to discourage and repel those who observe and who are acted upon by them, instead of exciting an inclination to imitate and adopt them. Young minds are particularly liable to these unfortunate impressions. For instance, if a father's œconomy degenerate into a minute and teasing parsimony, it is odds but that the son, who has suffered under it, set out a sworn enemy to all rules of order and frugality. If a father's piety be morose, rigorous, and tinged with melancholy, perpetually breaking in upon the recreation of his family, and surfeiting them with the language of religion on all occasions, there is danger lest the son carry from home with him a settled prejudice against seriousness and religion, as inconsistent with every plan of a pleasurable life; and turn out, when he mixes with the world, a character of levity or dissoluteness.

Something likewise may be done towards the correcting or improving of those early inclinations which children discover, by

disposing them into situations the least dangerous to their particular characters. Thus, I would make choice of a retired life for young persons addicted to licentious pleasures; of private stations for the proud and passionate; of liberal professions, and a town-life, for the mercenary and sottish: and not, according to the general practice of parents, send dissolute youths into the army; penurious tempers to trade; or make a crafty lad an attorney; or flatter a vain and haughty temper with elevated names, or situations or callings, to which the fashion of the world has annexed precedency and distinction, but in which his disposition, without at all prompting his success, will serve both to multiply and exasperate his disappointments. In the same way, that is, with a view to the particular frame and tendency of the pupil's character, I would make choice of a public or private education. The reserved, timid, and indolent will have their faculties called forth and their nerves invigorated by a public education. Youths of strong spirits and passions will be safer in a private education. At our public schools, as far as I have observed, more literature is acquired,

and more vice; quick parts are cultivated, slow ones are neglected. Under private tuition, a moderate proficiency in juvenile learning is seldom exceeded, but with more certainty attained.

CHAPTER X.

THE RIGHTS OF PARENTS.

The rights of parents result from their duties. If it be the duty of a parent to educate his children, to form them for a life of usefulness and virtue, to provide for them situations needful for their subsistence and suited to their circumstances, and to prepare them for those situations; he has a right to such authority, and in support of that authority to exercise such discipline, as may be necessary for these purposes. The law of nature acknowledges no other foundation of a parent's right over his children, besides his duty towards them. (I speak now of such rights as may be enforced by coercion.) This relation confers no property in their persons, or natural

dominion over them, as is commonly supposed.

Since it is, in general, necessary to determine the destination of children, before they are capable of judging of their own happiness, parents have a right to elect professions for them.

As the mother herself owes obedience to the father, her authority must submit to his. In a competition, therefore, of commands, the father is to be obeyed. In case of the death of either, the authority, as well as duty, of both parents, devolves upon the survivor.

These rights, always following the duty, belong likewise to guardians; and so much of them as is delegated by the parents or guardians, belongs to tutors, school-masters, &c.

From this principle, "that the rights of "parents result from their duty," it follows, that parents have no natural right over the lives of their children, as was absurdly allowed to Roman fathers; nor any to exercise unprofitable severities; nor to command the commission of crimes: for these rights can never be wanted for the purpose of a parent's duty.

Nor, for the same reason, have parents any right to sell their children into slavery. Upon which, by the way, we may observe, that the children of slaves are not, by the law of nature, born slaves: for, as the master's right is derived to him through the parent, it can never be greater than the parent's own.

Hence also it appears, that parents not only pervert, but exceed, their just authority, when they consult their own ambition, interest, or prejudice, at the manifest expense of their children's happiness. Of which abuse of parental power, the following are instances: the shutting up of daughters and younger sons in nunneries and monasteries, in order to preserve entire the estate and dignity of the family; or the using of any arts, either of kindness or unkindness, to induce them to make choice of this way of life themselves; or, in countries where the clergy are prohibited from marriage, putting sons into the church for the same end, who are never likely either to do or receive any good in it, sufficient to compensate for this sacrifice; the urging of children to marriages from which they are averse, with the view of exalting or enrich-

ing the family, or for the sake of connecting estates, parties, or interests; or the opposing of a marriage, in which the child would probably find his happiness, from a motive of pride or avarice, of family hostility, or personal pique.

CHAPTER XI.

THE DUTY OF CHILDREN.

The Duty of Children may be considered,

I. During childhood.

II. After they have attained to manhood, but continue in their father's family.

III. After they have attained to manhood, and have left their father's family.

I. *During childhood.*

Children must be supposed to have attained to some degree of discretion before they are capable of any duty. There is an interval of eight or nine years between the dawning and the maturity of reason, in which it is necessary to subject the inclination of children to many restraints, and direct their application to many employ-

ments, of the tendency and use of which they cannot judge; for which cause, the submission of children during this period must be ready and implicit, with an exception, however, of any manifest crime which may be commanded them.

II. *After they have attained to manhood, but continue in their father's family.*

If children, when they are grown up, voluntarily continue members of their father's family, they are bound, beside the general duty of gratitude to their parents, to observe such regulations of the family as the father shall appoint; contribute their labour to its support, if required; and confine themselves to such expenses as he shall allow. The obligation would be the same, if they were admitted into any other family, or received support from any other hand.

III. *After they have attained to manhood, and have left their father's family.*

In this state of the relation, the duty to parents is simply the duty of gratitude; not different *in kind*, from that which we owe to any other benefactor; *in degree*, just so much exceeding other obligations, by how much a parent has been a greater benefactor than any other friend. The ser-

vices and attentions, by which filial gratitude may be testified, can be comprised within no enumeration. It will show itself in compliances with the will of the parents, however contrary to the child's own taste or judgement, provided it be neither criminal, nor totally inconsistent with his happiness; in a constant endeavour to promote their enjoyments, prevent their wishes, and soften their anxieties, in small matters as well as in great; in assisting them in their business; in contributing to their support, ease, or better accommodation, when their circumstances require it; in affording them our company, in preference to more amusing engagements; in waiting upon their sickness or decrepitude; in bearing with the infirmities of their health or temper, with [redacted]ess and complaints, the unfashionable, negligent, austere manners, and offensive habits, which often attend upon advanced years: for, where must old age find indulgence, if it do not meet with it in the piety and partiality of children?

The most serious contentions between parents and their children are those commonly which relate to marriage, or to the choice of a profession.

A parent has, in no case, a right to destroy his child's happiness. If it be true, therefore, that there exist such personal and exclusive attachments between individuals of different sexes, that the possession of a particular man or woman in marriage be really necessary for the child's happiness; or, if it be true, that an aversion to a particular profession may be involuntary and unconquerable; then it will follow, that parents, where this is the case, ought not to urge their authority, and that the child is not bound to obey it.

The point is, to discover how far, in any particular instance, this *is* the case. Whether the fondness of lovers ever continues with such intensity, and so long, that the success of their desires constitutes, or the disappointment affects, a considerable portion of their happiness, compared with that of their whole life, it is difficult to determine: but there can be no difficulty in pronouncing, that not one half of those attachments, which young people conceive with so much haste and passion, are of this sort. I believe it also to be true, that there are few aversions to a profession, which resolution, perseverance, activity in

going about the duty of it, and, above all, despair of changing, will not subdue: yet there are some such. Wherefore, a child who respects his parents' judgement, and is, as he ought to be, tender of their happiness, owes, at least, so much deference to their will, as to try fairly and faithfully, in one case, whether time and absence will not cool an affection which they disapprove; and, in the other, whether a longer continuance in the profession which they have chosen for him may not reconcile him to it. The whole depends upon the experiment being made on the child's part with sincerity, and not merely with a design of compassing his purpose at last, by means of a simulated and temporary compliance. It is the nature of love and hatred, and of all violent affections, to delude the mind with a persuasion that we shall always continue to feel them as we feel them at present; we cannot conceive that they will either change or cease. Experience of similar or greater changes in ourselves, or a habit of giving credit to what our parents, or tutors, or books teach us, may control this persuasion, otherwise it renders youth very untractable: for, they see clearly and truly

that it is impossible they should be happy under the circumstances proposed to them, in their present state of mind. After a sincere but ineffectual endeavour, by the child, to accommodate his inclination to his parent's pleasure, he ought not to suffer in his parent's affection, or in his fortunes. The parent, when he has reasonable proof of this, should acquiesce; at all events, the child is *then* at liberty to provide for his own happiness.

Parents have no right to urge their children upon marriages to which they are averse: nor ought, in any shape, to resent the children's disobedience to such commands. This is a different case from opposing a match of inclination, because the child's misery is a much more probable consequence; it being easier to live without a person that we love, than with one whom we hate. Add to this, that compulsion in marriage necessarily leads to prevarication; as the reluctant party promises an affection, which neither exists, nor is expected to take place: and parental, like all human authority, ceases at the point where obedience becomes criminal.

In the above-mentioned, and in all con-

tests between parents and children, it is the parent's duty to represent to the child the consequences of his conduct; and it will be found his best policy to represent them with fidelity. It is usual for parents to exaggerate these descriptions beyond probability, and by exaggeration to lose all credit with their children; thus, in a great measure, defeating their own end.

Parents are forbidden to interfere, where a trust is reposed personally in the son; and where, consequently, the son was expected, and by virtue of that expectation is obliged, to pursue his own judgement, and not that of any other: as is the case with judicial magistrates in the execution of their office; with members of the legislature in their votes; with electors, where preference is to be given to certain prescribed qualifications. The son may assist his own judgement by the advice of his father, or of any one whom he chooses to consult: but his own judgement, whether it proceed upon knowledge or authority, ought finally to determine his conduct.

The duty of children to their parents was thought worthy to be made the subject of

one of the Ten Commandments; and, as such, is recognised by Christ, together with the rest of the moral precepts of the Decalogue, in various places of the Gospel.

The same divine Teacher's sentiments concerning the relief of indigent parents, appear sufficiently from that manly and deserved indignation with which he reprehended the wretched casuistry of the Jewish expositors, who, under the name of a tradition, had contrived a method of evading this duty, by converting, or pretending to convert, to the treasury of the temple, so much of their property as their distressed parent might be entitled by their law to demand.

Agreeably to this law of Nature and Christianity, children are, by the law of England, bound to support, as well their immediate parents, as their grandfather and grandmother, or remoter ancestors, who stand in need of support.

Obedience to parents is enjoined by St. Paul to the Ephesians: "Children, obey "your parents in the Lord, for this is "right;" and to the Colossians: "Child-

" ren, obey your parents in all things, for " this is well pleasing unto the Lord*."

By the Jewish law, disobedience to parents was in some extreme cases capital: Deut. xxi. 18.

* Upon which two phrases, " this is right," and " for " this is well pleasing unto the Lord," being used by St. Paul in a sense perfectly parallel, we may observe, that moral rectitude, and conformity to the Divine will, were, in his apprehension, the same.

END OF VOL. I.

Printed by S. Hamilton, Weybridge.

00059712

Digitized with financial assistance from the
Government of Maharashtra
on 09 March, 2016